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TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

Subchapter A—Administrative Organization

PART 1—GENERAL INFORMATION REGARDING THE IMMIGRATION AND NATURALIZATION SERVICE

Subchapter B—Immigration Regulations

PART 150—ARREST AND DEPORTATION

AUTHORITY TO ISSUE WARRANTS OF ARREST

JUNE 2, 1948.

The following amendments to Title 8, Chapter I, Code of Federal Regulations, are hereby prescribed:

1. Section 1.48a (b) (13 F. R. 1991) is amended by including the names of additional places so that taken with the introductory sentence it will read as follows:

§ 1.48a *Final authority; delegation to officers in charge of suboffices.* In addition to the powers granted to them by law, officers in charge of suboffices have final authority delegated to them to make determinations involving the following:

* * * * *

(b) Issuance of certain warrants of arrest, but this authority is delegated only to officers in charge at El Centro, Fresno, Sacramento, Salinas, San Bernardino, San Diego, San Pedro, and Stockton, all in the State of California, and to the assistant officer in charge at San Diego, California, in accordance with the provisions of § 150.3 (e) and (f) of this chapter; this authority is concurrent with and coextensive with the authority of district directors to issue warrants of arrest under the provisions of § 1.46 (c).

2. Section 150.3 is amended by adding paragraph (f) as follows:

§ 150.3 *Issuance of warrants of arrest.* * * *

(f) In any case where the officer in charge of District No. 16, with headquarters at Los Angeles, California, has authority to issue a warrant for the arrest of an alien within District No. 16, the warrant of arrest may be issued by the officers in charge at El Centro, San Bernardino, San Diego, and San Pedro, all in the State of California, and by the assistant officer in charge at San Diego, California, and a copy of the warrant and of all of the evidence in support thereof forwarded immediately to the Central Office and to the officer in charge of the district. The authority conferred on officers in charge of suboffices by this paragraph shall be exercised only when the volume of warrants to be issued creates an emergent situation and the officer in charge of the district finds that it is in the interests of better administration for such authority to be exercised.

This order shall become effective on the date of its publication in the FEDERAL REGISTER. The requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup., 1003) relative to notice of proposed rule making and delayed effective date are inapplicable for the reason that the rules prescribed by this order pertain to agency organization, particularly delegation of authority.

(Sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37 (a), 54 Stat. 675, sec. 1, 54 Stat. 1238, sec. 3 (a) (1) and (2), 60 Stat. 238; 8 U. S. C. 102, 222, 458, 5 U. S. C. 1002; 8 CFR 90.1, 12 F. R. 4781)

WATSON B. MILLER,
Commissioner of Immigration and Naturalization.

Approved: June 9, 1948.

TOM C. CLARK,
Attorney General.

[F. R. Doc. 48-5325; Filed, June 14, 1948; 8:47 a. m.]

Subchapter B—Immigration Regulations

PART 110—PRIMARY INSPECTION AND DETENTION

DESIGNATION OF ESTCOURT, MAINE, AS A LIMITED PORT OF ENTRY

MAY 27, 1948.

Section 110.1, *Designated ports of entry except by aircraft,* Chapter I, Title 8, Code of Federal Regulations, is amended by inserting "Estcourt, Maine" between "Easton, Maine" and "Forest City, Maine" in the list of Class B ports of entry in District No. 1.

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup., 1003) as to notice of proposed rule making and delayed effective date is unnecessary because the rule prescribed by the order relieves restrictions and is clearly advantageous to persons affected thereby.

(Sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37 (a), 54 Stat. 675, sec. 1,

54 Stat. 1238; 8 U. S. C. 102, 222, 458; 8 CFR 90.1, 12 F. R. 4781)

WATSON B. MILLER,
Commissioner of Immigration and Naturalization.

Approved: June 9, 1948.

TOM C. CLARK,
Attorney General.

[F. R. Doc. 48-5326; Filed, June 14, 1948; 8:47 a. m.]

PART 110—PRIMARY INSPECTION AND DETENTION

DESIGNATION OF DOROTHY SCOTT MUNICIPAL AIRPORT AND DOROTHY SCOTT SEAPLANE BASE, OROVILLE, WASH., AS TEMPORARY AIRPORTS OF ENTRY FOR ALIENS; CHANGE IN NAME OF NOGALES MUNICIPAL AIRPORT

JUNE 9, 1948.

1. Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER of April 29, 1948 (13 F. R. 2313), pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup., 1003) and in which there were stated in full the terms of a proposed amendment of the rule (8 CFR 110.3 (b)) relating to temporary airports of entry for aliens. No representations concerning the proposal have been received. The rule as stated below is hereby adopted. The provisions of the adopted rule are the same as those stated in the notice of proposed rule making.

Paragraph (b) of § 110.3, *Airports of entry*, Chapter I, Title 8, Code of Federal Regulations, is amended by adding the following to the list of temporary airports of entry for aliens:

Oroville, Wash., Dorothy Scott Municipal Airport.
Oroville, Wash., Dorothy Scott Seaplane Base.

The rule stated above shall become effective on June 1, 1948. Compliance with the provision of section 4 (c) of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup., 1003) as to delayed effective date (1) is unnecessary because the rule prescribed above relieves restrictions and is clearly advantageous to persons affected thereby, and (2) is impracticable because June 1, 1948, is the effective date of the designation of the above-named places as temporary airports of entry for customs purposes (13 F. R. 2406).

The basis for the rule prescribed above is a determination that the establishment of the two airports named is warranted by the volume of traffic which they will accommodate, and the general purpose of this rule is to facilitate international travel.

2. Section 110.3 (a), Chapter I, Title 8, Code of Federal Regulations, is hereby amended by substituting "Nogales, Ariz., Nogales International Airport" for "Nogales, Ariz., Nogales Municipal Airport." This amendment shall be considered effective as of May 1, 1948, because on that date there was published in the FEDERAL REGISTER a comparable amendment of the customs regulations (13 F. R. 2368). Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup., 1003) as to notice of proposed rule making and delayed effective date is unnecessary with respect to this amendment because its sole effect is to make the immigration regulations reflect the new official name of this airport.

(Sec. 7 (d), 44 Stat. 572, sec. 1, 54 Stat. 1238; 49 U. S. C. 177 (d))

TOM C. CLARK,
Attorney General.

Recommended: May 27, 1948.

WATSON B. MILLER,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 48-5324; Filed, June 14, 1948; 8:47 a. m.]

TITLE 13—BUSINESS CREDIT

Chapter I—Reconstruction Finance Corporation

PART 01—ORGANIZATION

CENTRAL ORGANIZATION; FEDERAL NATIONAL MORTGAGE ASSOCIATION

Paragraph (c) of § 01.6, as amended (12 F. R. 7825) is hereby amended to read as follows:

§ 01.6 *Affiliated organizations.* * * *

(c) *Federal National Mortgage Association.* The Federal National Mortgage Association (formerly the National Mortgage Association of Washington) was organized pursuant to the provisions of Title III of the National Housing Act, as amended. The capital stock of the Association is owned by RFC. The Association is staffed by RFC employees and functions through a principal office in Washington, D. C. and Agents in the various Loan Agencies of RFC. The Association is managed by a Board of Directors.

The Association, pursuant to commitments previously executed, purchases from mortgagees approved by the Federal Housing Administration, first mortgages insured under sections 203, 207, 603 and 608 (except farm mortgages insured under section 203 (d)) of the National Housing Act, as amended. Applications for commitments to purchase mortgages must be submitted to the Association and such commitments obtained before construction of the improvements has commenced. The applications must be accompanied by evidence that no other market is available.

(Sec. 3, 60 Stat. 238; 5 U. S. C. 1002)

M. W. KNARR,
Assistant Secretary.

[F. R. Doc. 48-5356; Filed, June 14, 1948; 8:56 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Supp. 5]

PART 60—AIR TRAFFIC RULES

AIRCRAFT LIGHTS

Section 60.113 of the Civil Air Regulations (14 CFR, 60.113) provides in part that within the Territory of Alaska lights required by the regulation shall be displayed during those hours specified and published by the Administrator.

Acting pursuant to the foregoing authority, the following specifications are hereby adopted. These specifications supersede Part 615 (published January 15, 1948, in 13 F. R. 195-196; revoked effective today [1]). They are issued without delay in order to promote safety of the flying public. The notice, procedures, and effective date requirements contained in section 4 of the Administrative Procedure Act (60 Stat. 237, 238; 5 U. S. C. 1001, 1003) do not apply, since compliance with them would be impracticable, unnecessary, and contrary to the public interest.

§ 60.113 *Aircraft lights.* * * *

CAA SPECIFICATIONS

In Alaska the lights required by this section shall be displayed when any unlighted aircraft or other unlighted prominent objects cannot readily be seen beyond a distance of three miles, or when the sun is more than six degrees below the horizon.[2]

(Secs. 205 (a), 601, 52 Stat. 984, 1007; 49 U. S. C. 425 (a), 551; 14 CFR 60.113, 13 F. R. 475)

These specifications shall become effective upon publication in the FEDERAL REGISTER.

F. B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 48-5316; Filed, June 14, 1948; 8:46 a. m.]

[Regs., Serial No. ER-128]

PART 292—CLASSIFICATIONS AND EXEMPTIONS

IRREGULAR AIR CARRIERS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 9th day of June, 1948.

The amendment of § 292.1 in effect permits small irregular air carriers to engage in the foreign air transportation of persons. This change is accomplished (1) by eliminating the restriction against the foreign air transportation of persons by all irregular air carriers (paragraph (b) item (2)), and (2) by prohibiting large irregular air carriers from engaging in the foreign air transportation of persons (paragraph (f)).

The amendment also clarifies the existing regulations by removing the definition of the term "point" in paragraph (b) and placing it in a separate paragraph (f). The definition has not been changed.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all relevant matter submitted.

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[1] See F. R. Doc. 48-5317, Part 615, Chapter II of this title, *infra*.

[2] "The duration of civil twilight is the interval in the evening from sunset until the time when the center of the Sun is 6° below the horizon; or the corresponding interval in the morning between sunrise and the time at which the Sun was still 6° below the horizon." "Tables of Sunrise, Sunset, and Twilight," United States Naval Observatory, 1946, p. 9.

In consideration of the foregoing the Board hereby amends § 292.1 of the Economic Regulations (14 CFR, 292.1) Irregular Air Carriers as follows, effective July 15, 1948:

(1) By amending the first unnumbered paragraph of paragraph (b) to read as follows:

§ 292.1 *Irregular air carriers.* * * *

(b) *Classification.* There is hereby established a classification of noncertificated air carriers to be designated as "irregular air carriers". The term "irregular air carrier" means any air carrier which (1) directly engages in air transportation, (2) does not hold a certificate of public convenience and necessity under section 401 of the Civil Aeronautics Act of 1938, as amended, and (3) does not operate, or hold out to the public expressly or by course of conduct that it operates, one or more aircraft between designated points, or within a designated point, regularly or with a reasonable degree of regularity, upon which aircraft it accepts for transportation, for compensation or hire, such members of the public as apply therefor or such property as the public offers. No air carrier shall be deemed to be an irregular air carrier unless the air transportation services offered and performed by it are of such infrequency as to preclude an implication of a uniform pattern or normal consistency of operation between, or within, such designated points.

(2) By relettering the existing paragraph (e) as paragraph (g) and adding the following new paragraphs (e) and (f):

(e) *Operational limitations for large irregular air carriers.* Large irregular air carriers shall not engage in the foreign air transportation of persons, and are not granted any exemption by this regulation from the provisions of the Civil Aeronautics Act of 1938, as amended, with respect to such foreign air transportation of persons.

(f) *Definitions.* The term "point" as used in this section shall mean any airport or place where aircraft may be landed or taken off, including the area within a 25-mile radius of such airport or place.

(Secs. 205 (a), 416, 52 Stat. 984, 1004; 49 U. S. C. 425 (a), 496)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 48-5354; Filed, June 14, 1948; 8:55 a. m.]

Chapter II—Civil Aeronautics Administration

[Amdt. 1]

PART 615—"HOURS OF DARKNESS" IN ALASKA

REVOCATION

Part 615, published in 13 F. R. 195-196, is hereby revoked. It is superseded by the specifications published herewith under Chapter I, Part 60, § 60.113, *supra.*

(52 Stat. 973, 984-986, 54 Stat. 1231, 1233-1235; 49 U. S. C. 401, 425, 451, 458)

F. B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 48-5317; Filed, June 14, 1948; 8:46 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 4976]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

KENITE LABORATORY, INC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product or service:* § 3.6 (y 10) *Advertising falsely or misleadingly—Scientific or other relevant facts:* § 3.66 (h) *Misbranding or mislabeling—Qualities or properties:* § 3.66 (j 20) *Misbranding or mislabeling—Scientific or other relevant facts.* In connection with the offering for sale, sale or distribution in commerce of the respondent's product designated "Kek," or any product of substantially similar composition or possessing substantially similar properties, representing, directly or by implication, (1) that said product is an effective cure for defective heating, or that it can be depended upon to separate the foreign matter from the water in a boiler; (2) that the use of said product will increase steam pressure in a boiler or heating system, create dry steam, or cause an abundance of steam to fill and heat radiators, or that it will otherwise eliminate defective steaming conditions in cast iron or steel boilers when any of such conditions are caused by mechanical defects in the boilers; (3) that said product will completely remove the scale from cast iron or steel boilers; (4) that said product will correct the inefficiency of a steam heating system as indicated by its inability to raise steam pressure, water leaving the boiler when the pressure rises, hammering in pipe lines and radiators, water in radiators, ejection of water by air valves, or excessive fuel consumption, when any of these conditions are caused by mechanical defects of the boiler or heating system; (5) that defective steaming conditions are prevalent in cast iron or steel boilers; or, (6) that the use of the testing chemicals supplied by respondent to prospective users of its product can be depended upon to determine whether the water content of a boiler contains ingredients deleterious to the boiler or heating system; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, Kenite Laboratory, Inc., Docket 4976, March 31, 1948]

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 31st day of March A. D. 1948.

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, the answer of the respondent, an agreed stipulation as to the facts entered into between counsel for respondent and counsel supporting the complaint, the recommended decision of the trial examiner and exceptions thereto filed by counsel for respondent, and briefs in support of and in opposition to the allegations of the complaint (oral argument not having been requested); and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Kenite Laboratory, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of the respondent's product designated "Kek", or any other product of substantially similar composition or possessing substantially similar properties, do forthwith cease and desist from representing, directly or by implication:

1. That said product is an effective cure for defective heating, or that it can be depended upon to separate the foreign matter from the water in a boiler.

2. That the use of said product will increase steam pressure in a boiler or heating system, create dry steam, or cause an abundance of steam to fill and heat radiators, or that it will otherwise eliminate defective steaming conditions in cast iron or steel boilers when any of such conditions are caused by mechanical defects in the boilers.

3. That said product will completely remove the scale from cast iron or steel boilers.

4. That said product will correct the inefficiency of a steam heating system as indicated by its inability to raise steam pressure, water leaving the boiler when the pressure rises, hammering in pipe lines and radiators, water in radiators, ejection of water by air valves, or excessive fuel consumption, when any of these conditions are caused by mechanical defects of the boiler or heating system.

5. That defective steaming conditions are prevalent in cast iron or steel boilers.

6. That the use of the testing chemicals supplied by respondent to prospective users of its product can be depended upon to determine whether the water content of a boiler contains ingredients deleterious to the boiler or heating system.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 48-5313; Filed, June 14, 1948; 8:48 a. m.]

[Docket No. 5257]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

CENTRAL MERCHANDISE CO.

§ 3.6 (i) *Advertising falsely or misleadingly—Free goods or service:* § 3.72 (e) *Offering deceptive inducements to purchase or deal—Free goods:* § 3.99 (b) *Using or selling lottery devices—In merchandising.* In connection with the offering for sale, sale, or distribution of any merchandise in commerce, (1) supplying to or placing in the hands of others any merchandise, together with push or pull cards, punchboards, or any other lottery devices, which said push or pull cards, punchboards, or other lottery devices are to be used, or may be used, in selling or distributing such merchandise to the public; (2) supplying to or placing in the hands of others push or pull cards, punchboards, or other lottery devices, either with any merchandise or separately, which push or pull cards, punchboards, or other lottery devices are to be used, or may be used, in selling or distributing merchandise to the public; (3) selling or otherwise disposing of any merchandise by the use of push cards, pull cards, punchboards or other lottery devices; or, (4) using the terms "free" or "gift," or any other word or term of similar import or meaning, to describe or refer to any merchandise which is not in fact a gift or gratuity or is not given to the recipient thereof without requiring the performance of some service inuring directly or indirectly to the respondent; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; U. S. C., sec. 45b) [Cease and desist order, Central Merchandise Company, Docket 5257, March 31, 1948.]

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 31st day of March A. D. 1948.

In the Matter of Irving Hechtman, an Individual Trading as Central Merchandise Company

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and other evidence in support of the allegations of said complaint and in opposition thereto taken before a trial examiner of the Commission theretofore duly designated by it, the recommended decision of the trial examiner and briefs in support of the complaint and in opposition thereto (no oral argument having been requested); and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Irving Hechtman, individually, and trading as Central Merchandise Company and as Huron Sales Company, or trading under any other name, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of any merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Supplying to or placing in the hands of others any merchandise, together with push or pull cards, punchboards, or any other lottery devices, which said push or pull cards, punchboards, or other lottery devices are to be used, or may be used, in selling or distributing such merchandise to the public.

2. Supplying to or placing in the hands of others push or pull cards, punchboards, or other lottery devices, either with any merchandise or separately, which push or pull cards, punchboards, or other lottery devices are to be used, or may be used, in selling or distributing merchandise to the public.

3. Selling or otherwise disposing of any merchandise by the use of push cards, pull cards, punchboards or other lottery devices.

4. Using the terms "free" or "gift", or any other word or term of similar import or meaning, to describe or refer to any merchandise which is not in fact a gift or gratuity or is not given to the recipient thereof without requiring the performance of some service inuring directly or indirectly to the respondent.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 48-5314; Filed, June 14, 1948; 8:49 a. m.]

TITLE 24—HOUSING CREDIT

Chapter V—Federal Housing Administration

PART 500—GENERAL

SUBPART B—DELEGATION OF AUTHORITY AND ASSIGNMENT OF DUTIES

In Federal Register Document 48-4932, appearing at page 2987 of the issue for Friday, June 4, 1948, the letter "(d)" appearing in paragraph (d) of § 500.13 should read "(e)" and the name of the Federal Housing Commissioner appearing as "Franklin B. Richards" should read "Franklin D. Richards."

(Sec. 1, 48 Stat. 1246; 12 U. S. C. 1702 and Reorg. Plan 3 of 1947, 12 F. R. 4981)

R. WINTON ELLIOTT, *Assistant Commissioner.*

JUNE 9, 1948.

[F. R. Doc. 48-5318; Filed, June 14, 1948; 8:46 a. m.]

TITLE 25—INDIANS

Chapter I—Office of Indian Affairs, Department of the Interior

Subchapter T—Patents in Fee, Competency Certificates, Sales and Reinvestment of Proceeds

PART 241—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, SALE OF CERTAIN INDIAN LANDS, AND REINVESTMENT OF PROCEEDS

CERTIFICATES OF COMPETENCY TO CERTAIN OSAGE ADULTS

Section 241.5 is amended to read as hereinafter set forth:

§ 241.5 *Certificates of competency to certain Osage adults.* Applications for certificates of competency by adult members of the Osage Tribe of one-half or more Indian blood shall be on the form [1] prescribed by the Secretary of the Interior. Upon the finding by the Secretary or by his duly authorized representative that an applicant who has filed an application on the prescribed form with the Superintendent of the Osage Agency is capable of managing his or her own affairs and transacting his or her own business, a certificate of competency may be granted removing the restrictions against alienation of all restricted property, except Osage headright interests, of the applicant. (Sec. 2, 34 Stat. 545, secs. 3, 4, 41 Stat. 1250)

CROSS REFERENCES: For regulations pertaining to the issuance of certificates of competency to adult Osage Indians of less than one-half Indian blood, see Part 242, Subpart B, *infra.*

WILLIAM E. WARNE, *Assistant Secretary of the Interior.*

JUNE 2, 1948.

[F. R. Doc. 48-5081; Filed, June 14, 1948; 8:46 a. m.]

PART 242—OSAGE ROLL, CERTIFICATES OF COMPETENCY, AND OSAGE LANDS

SUBPART A—PREPARATION OF ROLL AND ISSUANCE OF CERTIFICATES OF COMPETENCY

Sec.
242.1 Definitions.
242.2 Preparation of competency roll.
242.3 Determination of age and quantum of Indian blood.
242.4 Notification; disagreement and decision.
242.5 Issuance of certificate of competency.
242.6 Costs of recording certificates of competency.
242.7 Delivery of cash and securities.

SUBPART B—CHANGING DESIGNATION OF HOMESTEAD ALLOTMENTS, EXCHANGES OF RESTRICTED LANDS, AND PARTITION PROCEEDINGS

242.51 Definitions.
242.52 Application for change in designation of homestead.
242.53 Order to change designation of homestead.
242.54 Exchanges of surplus and other restricted lands.
242.55 Institution of partition proceedings.
242.56 Partition records.

[1] Copies of the form may be obtained from the Superintendent of the Osage Indian Agency, Pawhuska, Oklahoma.

AUTHORITY: §§ 242.1 to 242.7, inclusive, issued under Pub. Law 408, 80th Cong.; §§ 242.51 to 242.59 issued under 35 Stat. 778, 37 Stat. 86, 40 Stat. 578, 60 Stat. 939; R. S. 161; 5 U. S. C. 22.

SUBPART A—PREPARATION OF ROLL AND ISSUANCE OF CERTIFICATES OF COMPETENCY

§ 242.1 *Definitions.* When used in the regulations in this part the following words or terms shall have the meaning shown below:

(a) "Secretary" means the Secretary of the Interior.

(b) "Commissioner" means the Commissioner of Indian Affairs.

(c) "Superintendent" means the Superintendent of the Osage Agency.

(d) "Person" means an unalloted member of the Osage Tribe of less than one-half Indian blood who has not received a certificate of competency.

§ 242.2 *Preparation of competency roll.* The Superintendent shall cause a roll to be compiled of all persons who have attained the age of 21 years, and shall add thereto the names of minors as they attain the age of 21 years. The roll shall include the names, last known address, date of birth, and the total quantum of Osage blood and non-Osage Indian blood of each person listed thereon.

§ 242.3 *Determination of age and quantum of Indian blood.* The date of birth as shown by the census records of the Osage Agency shall be accepted as prima facie evidence in determining the age of a person.

The total quantum of Indian blood of a person shall be computed and determined as follows:

(a) When the parents of a person are enrolled members, or when one parent is an enrolled member and the other parent is a descendant of an enrolled member, or when both parents are descendants of enrolled members, or when one parent is an enrolled member or descendant of an enrolled member of the Osage Tribe, and the other parent is of non-Indian blood, the Osage Agency register of Indian families for the year ending December 31, 1901, shall be accepted as prima facie evidence of the quantum of Indian blood.

(b) When one parent of a person is an enrolled member, or the descendant of an enrolled member of the Osage Tribe, and the other parent is of non-Osage blood, the Osage Agency register of Indian families for the year ending December 31, 1901 shall be accepted as prima facie evidence in determining the quantum of Osage Indian blood.

(c) When one parent of a person is of non-Osage Indian blood, the certification of the Superintendent or other officer in charge of the Indian Agency having jurisdiction over the affairs of the tribe of which the non-Osage Indian parent is a member or descendant of a member, as to such parent's quantum of Indian blood, shall be accepted as prima facie evidence in determining the quantum of non-Osage Indian blood.

(d) When the non-Osage parent of a person is alleged to be of Indian blood, and the Superintendent or other officer in charge of the Indian Agency having jurisdiction over the affairs of the tribe of which such parent is an alleged member or descendant of a member thereof, is unable to certify as to the quantum of Indian blood of such parent, affidavits as to such parent's quantum of Indian blood, when properly executed by two qualified individuals, may be accepted.

§ 242.4 *Notification; disagreement and decision.* When the Superintendent shall have determined that a person, 21 years or over, is of less than one-half Indian blood, he shall notify such person of his finding and inform him that if objection is not received within twenty (20) days from the date of notification, a certificate of competency will be issued. If the person claims to be of one-half or more Indian blood and that a certificate of competency should not be issued, he should submit to the Superintendent two affidavits or other evidence in support of his claim. The claim, affidavits or other evidence of the person as to his quantum of blood shall be submitted to the Commissioner of Indian Affairs for a ruling before the certificate of compentency is issued.

§ 242.5 *Issuance of certificate of competency.* A certificate of competency shall be issued by the Superintendent on Form 5–182 [1] to each person heretofore or hereafter attaining the age of 21 years and who has been determined to be of less than one-half Indian blood. Such certificate shall be recorded with the county clerk of Osage County, Oklahoma, before delivering the same to the person entitled thereto.

§ 242.6 *Costs of recording certificates of competency.* The Superintendent may expend the surplus funds of a person to make direct payment of the cost of recording a certificate of competency. If the person to whom a certificate of competency is issued has no surplus funds, the cost of recording the same shall be paid from Osage tribal funds.

§ 242.7 *Delivery of cash and securities.* After issuance and recordation of a certificate of competency as authorized by the regulations in this part, the Superintendent shall deliver to the individual named therein, or the legal guardian thereof, the original copy of the certificate of competency, together with all cash, stocks and bonds credited to the account of such individual upon the books of the Osage Agency, and obtain a receipt therefor.

SUBPART B — CHANGING DESIGNATION OF HOMESTEAD ALLOTMENTS, EXCHANGES OF RESTRICTED LANDS, AND PARTITION PROCEEDINGS

§ 242.51 *Definitions.* When used in the regulations in this part the following words or terms shall have the meaning shown below:

(a) "Secretary" means the Secretary of the Interior.

(b) "Commissioner" means the Commissioner of Indian Affairs.

(c) "Superintendent" means the Superintendent of the Osage Agency.

(d) "Special Attorney" means the Special Attorney for Osage Indians, or other legal officer designated by the Commissioner.

(e) "Homestead" means the restricted non-taxable lands, not exceeding 160 acres, allotted to an enrolled member of the Osage Tribe pursuant to the act of June 28, 1906 (34 Stat. 539), or the restricted surplus lands designated in lieu thereof pursuant to the act of May 25, 1918 (40 Stat. 578).

(f) "Surplus land" means those restricted lands, other than the homestead, allotted to an enrolled member of the Osage Tribe pursuant to the act of June 28, 1906 (34 Stat. 539).

§ 242.52 *Application for change in designation of homestead.* Any Osage allottee or the legal guardian thereof may make application to change his homestead for an equal area of his surplus land. The application shall give in detail the reasons why such change is desired and it shall be submitted to the Superintendent on Form 5–182a.[1]

§ 242.53 *Order to change designation of homestead.* The Superintendent may approve the application of an Osage allottee or his legal guardian, and issue an order to change designation of homestead, if he finds the applicant owns an equal area of surplus land. The expense of recording the order shall be borne by the applicant. The order to change designation shall be made on Form 5–182b.[1]

§ 242.54 *Exchanges of surplus and other restricted lands.* Upon written application of the Indians involved, and after approval by the Osage Tribal Council, the Superintendent may approve the exchanges of surplus lands. The Superintendent may also approve exchanges of other restricted lands between adult Indians and between adult Indians and non-Indians upon written application of the interested parties, after the title to the lands to be acquired by the Indians has been examined and accepted by the Special Attorney. Title to all lands acquired under this part by an Indian who does not have a certificate of competency shall be taken by deed containing a clause restricting alienation or encumbrance without the consent of the Secretary or his authorized representative. In case of differences in the appraised value of lands under consideration for exchange, the Superintendent may approve the application of an Indian for funds to equalize such differences to the extent authorized by 25 CFR, 222.8.

§ 242.55 *Institution of partition proceedings.* Prior authorization may be obtained from the Superintendent before the institution of proceedings to partition the lands of deceased Osage allottees in which any interest is held by an Osage Indian not having a certificate of com-

[1] Filed with the original document. Copies may be obtained upon request at the Office of Indian Affairs, Department of the Interior, Washington, D. C.

petency. Requests for authority to institute such partition proceedings shall contain a description of the lands involved, the names of the several joint owners and their respective interests and the reasons for such court action. The Superintendent may authorize the institution of partition proceedings in a court of competent jurisdiction when it appears to the best interest of the Indians involved to do so and the execution of voluntary exchange deeds is impracticable.

When it appears to the best interest of the Indians to do so, the Superintendent may require that title to the lands be quieted in the partition action to the end that sheriff's deeds issued pursuant to the proceedings shall convey good and merchantable title to the grantees therein.

§ 242.56 *Partition records.* Upon completion of an action in partition a copy of the judgment roll showing schedule of costs and owelty moneys having accrued to or from the several parties, together with sheriff's deeds in duplicate, shall be furnished to the Superintendent. Sheriff's deeds issued to members of the Osage Tribe who do not have certificates of competency shall contain the following clause against alienation:

Subject to the condition that while title to the above-described lands shall remain in the grantee or his Osage Indian heirs or devisees who do not have certificates of competency, the same shall not be alienated or encumbered without approval of the Secretary of the Interior or his authorized representative.

§ 242.57 *Approval of sheriff's deeds in partition and payment of costs.* Upon certification by the Special Attorney that the partition proceedings have been completed in accordance with the law and in conformity with the regulations in this part, the Superintendent may approve the sheriff's deeds and may disburse from the restricted (accounts) funds of the Indians concerned such amounts as may be necessary for payment of their share of court costs, attorney fees and owelty moneys.

§ 242.58 *Disposition of proceeds of partition sales.* Owelty moneys due members of the Osage Tribe who do not have certificates of competency shall be paid into the Treasury of the United States and placed to the credit of the Indians upon the same conditions as attach to segregated shares of the Osage national fund.

§ 242.59 *Appeals.* Parties in interest may appeal from the decision of the Superintendent to the Commissioner and from the decision of the Commissioner to the Secretary.

Dated: June 7, 1948.

WILLIAM E. WARNE,
Assistant Secretary of the Interior.

[F. R. Doc. 48-5323; Filed, June 14, 1948; 8:47 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

SALEM HARBOR, MASSACHUSETTS

Pursuant to the provisions of section 7 of the River and Harbor act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 207.7 is hereby prescribed establishing a portion of Salem Harbor as a seaplane restricted area for the United States Coast Guard Air Station, Salem, Massachusetts, and setting forth regulations relating thereto, as follows:

§ 207.7 *Salem Harbor, Massachusetts; seaplane restricted area*—(a) *The area.* The waters of Salem Harbor adjacent to the United States Coast Guard Air Station on Winter Island, Salem, Massachusetts, bounded as follows: Beginning at Fort Pickering Light at the southeastern tip of Winter Island; thence westerly along the southern shore of Winter Island to a point on the high water line bearing 264°, about 1,100 feet from Fort Pickering Light; thence 220°, 1,650 feet, to the northeast corner of Salem Terminal Company wharf, latitude 42°31'21" N., longitude 70°52'30" W., thence southeasterly in the line of the north side of said wharf extended 2,400 feet to its intersection with a line drawn between the beacon located southeasterly of Pickering Point and Buoy C9 located easterly of Abbott Rock Beacon; thence 34°, along the line drawn between the beacon located southeasterly of Pickering Point and Buoy C9, 1,100 feet; thence 80°, 5,600 feet, to Buoy N4; thence 350°, 600 feet; thence 260°, 3,350 feet, to Buoy N10; thence 305°, 1,200 feet, through Buoy C11, to a point on the line drawn between the beacon located southeasterly of Pickering Point and Buoy C9; thence 34°, 1,600 feet, to Buoy C9; thence 45°, 4,500 feet, to Buoy CT; thence 338° 30', 800 feet, to lighted channel Buoy C; thence 254°, 3,650 feet, to Channel Buoy C; thence 198°, 2,850 feet, to Abbott Rock Beacon; thence 218°, 1,800 feet, to the point of beginning. (All bearings refer to true meridian.)

(b) *The regulations.* (1) No vessel shall moor or anchor within the restricted area.

(2) No fish trap stakes or anchors or lobster pots shall be placed within the restricted area in any manner that will allow the buoys, floats, bobbers, or markers connected thereto to float on the surface within the area.

(3) Lobster pots set outside the restricted area shall be so set that the buoys, floats, bobbers, or markers connected thereto will not under any condition of tide or wind float within the area.

(4) This section shall be enforced by the Commanding Officer, United States Coast Guard Air Station, Salem, Massachusetts, and such agencies as he may designate. [Regs. May 25, 1948, CE 800.2121 (Salem Harbor, Mass.)—ENGWR] (40 Stat. 266; 33 U. S. C. 1)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 48-5331; Filed, June 14, 1948; 8:50 a. m.]

TITLE 34—NAVY

Chapter I—Department of the Navy

PART 14—CLAIMS

NAVY PERSONNEL CLAIMS REGULATIONS

CROSS REFERENCE: Sections 14.1 to 14.33, inclusive, are revoked and superseded by Part 40 of this chapter, *infra.*

PART 40—NAVY PERSONNEL CLAIMS REGULATIONS

Effective July 1, 1948, the Navy Personnel Claims Regulations which became effective January 18, 1946 (34 CFR, 1946 Supp., 14.1–14.33) are revoked and superseded by the following Part 40:

Sec.
40.1 Definitions.
40.2 Statutory provisions.
40.3 Scope.
40.4 Classes of claims payable.
40.5 Claims not payable.
40.6 Type and quantity of property.
40.7 Expensive articles.
40.8 Statute of limitations.
40.9 Application to pending claims.
40.10 Demand on carrier.
40.11 Form of demand on carrier.
40.12 Failure to make demand on carrier.
40.13 Demand on insurer.
40.14 Failure to make demand on insurer.
40.15 Transfer of rights against carrier or insurer.
40.16 Proration of recovery from carrier or insurer.
40.17 Proration in event of excess baggage.
40.18 Claims within provisions of other regulations.
40.19 Claimants.
40.20 Form of claim.
40.21 Evidence in support of claim.
40.22 Filing of claim.
40.23 Investigation of claim.
40.24 Form of investigating officer's report.
40.25 Navy service personnel adjudicating authority.
40.26 Marine Corps service personnel adjudicating authority.
40.27 Civilian personnel adjudicating authority.
40.28 Separation from service.
40.29 Meritorious claims not otherwise provided for.
40.30 Appeals.
40.31 Claims previously settled.
40.32 Authorization for issuance of instructions.

AUTHORITY: §§ 40.1 to 40.32, inclusive, issued under sec. 2, 59 Stat. 662; 31 U. S. C. 222e.

§ 40.1 *Definitions.* (a) "Claim" means any claim filed under oath by the commissioned, appointed, enrolled, and enlisted personnel of the Navy and Marine Corps, and by civilian employees of the Naval Establishment, for damage, loss, destruction, capture or abandonment on or after December 7, 1939, of their personal property incident to their service.

(b) "Navy" and "Marine Corps" include in each case, unless the context

otherwise requires, the reserve component thereof.

(c) "Service personnel" means the commissioned, appointed, enrolled, and enlisted personnel of the Navy and Marine Corps, respectively.

(d) "Civilian personnel" means, in addition to other employees of the Naval Establishment, those paid on a contract basis.

(e) The word "military" includes "naval."

(f) The words "Navy" or "naval" as used herein include "Marine Corps" except where the context indicates to the contrary.

§ 40.2 *Statutory provisions.* The substance of the pertinent statutory provisions is incorporated herein for information as to the effect of legislation conferring upon the Secretary of the Navy certain powers previously conferred upon the Secretary of War. Section 2 of the act of December 28, 1945 (59 Stat. 662; 31 U. S. C. 222e), makes applicable to the Navy Department and the Navy the act of May 29, 1945 (59 Stat 225; 31 U. S. C. 222c). The Secretary of the Navy, and such other officer or officers as he may designated for such purposes and under such regulations as he may prescribe, are authorized thereby to consider, ascertain, adjust, determine, settle, and pay any claim against the United States, including claims not heretofore satisfied arising on or after December 7, 1939, of military personnel and civilian employees of the Navy Department or of the Navy, when such claim is substantiated, and the property determined to be reasonable, useful, necessary, or proper under the attendant circumstances, in such manner as the Secretary of the Navy may by regulation prescribe, for damage to or loss, destruction, capture, or abandonment of personal property occurring incident to their service, or to replace such personal property in kind; with the exception that the damage to or loss, destruction, capture, or abandonment of property shall not have been caused in whole or in part by any negligence or wrongful act on the part of the claimant, his agent, or employee, and shall not have occurred at quarters occupied by the claimant within continental United States (excluding Alaska) which are not assigned to him or otherwise provided in kind by the Government. No claim is authorized to be settled under the act of December 28, 1945, unless presented in writing within one year after the accident or incident out of which such claim arises shall have occurred; it is provided, however, that if such accident or incident occurs in time of war, or if war intervenes within two years after its occurrence, any claim may, on good cause shown, be presented within one year after peace is established. Any such settlement made by the Secretary of the Navy, or his designee, under the authority of the act of December 28, 1945, and such regulations as he may prescribe hereunder, shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary. Appropriations available to the Navy Department are made available for the settlement of such claims by the Secretary of the Navy.

§ 40.3 *Scope.* Claims of military personnel and of civilian employees of the Navy Department or of the Navy for damage to or loss, destruction, capture, or abandonment of personal property, the possession of which by claimant was reasonable, useful, necessary, or proper under the attendant circumstances, occurring incident to their service are within the scope of §§ 40.1 to 40.32, inclusive, subject to the following provisions.

§ 40.4 *Classes of claims payable.* Claims are payable under the provisions of §§ 40.1 to 40.32, inclusive, when damage, loss, destruction, capture, or abandonment of personal property occurs under any of the following circumstances:

(a) *Saving Government property or human life.* Where property is damaged, lost, destroyed, or abandoned in consequence of the claimant's having given his attention to the saving of property belonging to the United States or to the saving of human life of another, provided such Government property or such human life was in danger at the same time and under similar circumstances and the situation was such that the claimant could have saved all or part of the property in relation to which claim is made if he had elected to do so.

(b) *Being engaged in official duties in connection with the disaster.* Where property is damaged, lost, destroyed, or abandoned while the claimant was engaged in the performance of official duties in connection with the disaster in which such damage, loss, destruction, or abandonment occurred, provided the situation was such that the claimant could have saved all or part of the property in relation to which claim is made if he had not been engaged in the performance of such official duties.

(c) *Property endangered by efforts to save Government property or human life.* Where property becomes endangered in consequence of the claimant's giving his attention to the saving of property belonging to the United States or to the saving of human life of another and as a result thereof is damaged, lost, destroyed, or abandoned.

(d) *Performing official duties in connection with civil disturbance, public disaster, or disorders.* Where property is damaged, lost, destroyed, or abandoned in consequence of the claimant's performing official duties in connection with civil disturbance, with public disaster, or with disorders involving persons subject to military law.

(e) *Property subjected to extraordinary risks.* Where property is damaged, lost, destroyed, or abandoned as a direct result of extraordinary risks to which it has been necessarily subjected in consequence of the performance by the claimant of official noncombat duties.

(f) *Marine disaster.* Where property is damaged, lost, destroyed, or abandoned incident to the service of the claimant in consequence of shipwreck, fire or other accident on board, collision, sinking, capsizing, or stranding of a vessel, or perils of the sea.

(g) *Aircraft disaster.* Where property is damaged, lost, destroyed, or abandoned incident to the service of the claimant in consequence of hazards in connection with aircraft.

(h) *Property furnished to others.* Where property is damaged, or lost to the claimant, in consequence of the claimant's having furnished it, at the direction or request of superior authority or by reason of military necessity, to others in immediate and urgent need thereof.

(i) *Property used for benefit of Government.* Where property is damaged, lost, destroyed, or abandoned while being used, or held for use, for the benefit of the Government at the direction or request of superior authority or by reason of military necessity.

(j) *Property located at quarters or other authorized places.* Where property is damaged or destroyed by fire, flood, hurricane, or other serious occurrence, while located at:

(1) Quarters wherever situated, occupied by the claimant, which were assigned to him, or otherwise provided in kind, by the Government; or

(2) Quarters not within continental United States, occupied by the claimant, but not assigned to him or otherwise provided in kind, by the Government for the purposes hereof Alaska is deemed to be not within continental United States), except where the claimant, if a civilian employee, is a local inhabitant or not a national of the United States; or

(3) Any warehouse, office, hospital, baggage dump, or other place (except quarters, but see subparagraphs (1) and (2) of this paragraph), designated by superior authority for the reception of the property.

(k) *Transportation losses.* Where property, including baggage checked or in personal custody, and including household effects, is damaged, lost, or destroyed incident to transportation by a carrier, an agent or agency of the Government, or private conveyance (1) when shipped under orders; or (2) in connection with travel under orders irrespective of the purpose of such travel; or (3) in connection with travel in performance of military duty with or without troops. Such claims may be approved only to the extent of the weight limit of the claimant's regulation allowance of baggage permitted to be shipped at Government expense.

(l) *Negligence of the Government.* Where property is damaged, lost, destroyed, or abandoned incident to the service of the claimant and a proximate cause of such damage, loss, destruction, or abandonment was the negligent act or omission of agents or employees of the Government acting within the scope of their employment.

(m) *Abandonment or destruction.* Where property is abandoned or destroyed (1) by order of superior authority, or (2) by reason of military emergency requiring such abandonment or destruction: *Provided,* If the claimant is a civilian employee not subject to military law, the abandonment or destruction occurred incident to the service of the claimant.

(n) *Enemy action.* Where property is damaged, destroyed, or captured by the enemy or is destroyed to prevent its falling into the hands of the enemy: *Provided,* If the claimant is a civilian employee not subject to military law, the damage, destruction, or capture occurred incident to the service of the claimant.

(o) *Lost in the field during campaign.* Where property is damaged, lost, destroyed, captured, or abandoned in the field incident to combat or to movement which is part of a combat mission: *Provided,* If the claimant is a civilian employee not subject to military law, the damage, loss, destruction, capture, or abandonment occurred incident to the service of the claimant.

(p) *Belligerent activities.* Where property is damaged, lost, destroyed, captured, or abandoned by reason of hostile or belligerent activities in the course of warfare to which the United States is not a party, confiscation, guerrilla activity, or organized brigandage, in a foreign country in which the claimant is present by reason of the performance of his duties for the Government of the United States: *Provided,* If the claimant is a civilian employee not subject to military law, the damage, loss, destruction, capture, or abandonment occurred incident to the service of the claimant.

(q) *Property destroyed to prevent the spread of disease.* Where personal property is destroyed in compliance with orders issued by competent authority to prevent the spread of disease.

(r) *Money deposited for safekeeping, transmittal, or other authorized disposition.* Where personal funds of military personnel are accepted by other military personnel acting with authority of the commanding officer of the ship or station for safekeeping, deposit, transmittal, or other authorized disposition, and such personal funds are neither applied as directed by the owner nor returned to him, such losses to military personnel are reimbursable when established by satisfactory evidence: *Provided,* That a claim for the loss of personal funds may not be approved in an amount greater than that which it was clearly reasonable for the claimant to have in his possession under the circumstances existing at the time of loss.

NOTE: Any particular claim may be within one or more of the above classes. Claims of all personnel based on paragraphs (a) to (e), (h) to (k), or (m) to (r) of this section are always incident to service. Claims of all personnel based on paragraphs (f), (g), or (l) of this section are payable only if the damage, loss, destruction, capture, or abandonment occurred incident to the service of the claimant.

§ 40.5 *Claims not payable.* Claims otherwise within the scope of § 40.1 are nevertheless not payable under the provisions of §§ 40.2 to 40.32, inclusive, when the damage, loss, destruction, capture, or abandonment involves any of the following classes of property or when losses occur under any of the following circumstances:

(a) *Money or currency.* Claims for money or currency will not be paid unless deposited with duly authorized personnel for safekeeping, deposit, transmittal, or other authorized disposition in accordance with § 40.4 (r) and existing laws and regulations governing such deposit.

(b) *Unserviceable property.* Worn-out or unserviceable property.

(c) *Souvenirs, etc.* Souvenirs, ornamental jewelry, and articles acquired to be disposed of as gifts.

(d) *Intangible property.* Choses-in-action, or evidence thereof, such as bank books, checks, promissory notes, stock certificates, bonds, bills of lading, warehouse receipts, baggage checks, insurance policies, money orders, and travelers' checks.

(e) *Government property.* Property owned by the United States, except such property for which the claimant is responsible to an agency of the Government other than the Navy Department or the Navy.

(f) *Nonpersonal items.* Property not personal to the use of the claimant, such as wearing apparel of other members of the claimant's household, except in cases of shipment of household effects and cases coming within the scope of § 40.4 (j).

(g) *Motor vehicles.* Claims for motor vehicles, of any type, will ordinarily not be paid except in cases where the damage, loss, destruction, capture, or abandonment occurred prior to July 1, 1942. Meritorious claims for damage, loss, destruction, capture or abandonment of motor vehicles occurring on or subsequent to July 1, 1942, may be recommended to the Secretary of the Navy for consideration, and may be approved by the Secretary for payment in proper cases.

(h) *Enemy property.* Property of civilian employees who are nationals of a country at war with the United States, or of any ally of such enemy country, except as it is determined that the claimant is friendly to the United States; property of prisoners of war or interned enemy aliens; and property of civilian employees of questionable loyalty to the United States or who have collaborated with an enemy, or with an ally of an enemy, of the United States.

(i) *Losses of subrogees.* Losses of insurers and other subrogees.

(j) *Losses recoverable from insurer.* Losses, or any portion thereof, which have been recovered or are recoverable from an insurer. (See §§ 40.13 and 40.14.)

(k) *Losses recoverable from carrier.* Losses, or any portions thereof, which have been recovered or are recoverable from a carrier. (See §§ 40.10 to 40.12, inclusive.)

(l) *Losses in quarters.* Where damage, loss, destruction, capture, or abandonment occurs at quarters occupied by the claimant within continental United States (excluding Alaska) which are not assigned to him, or otherwise provided in kind, by the Government.

(m) *Losses of merchant seamen.* Losses of merchant seamen, and of naval personnel to any part of which marine or war risk insurance issued by the United States Government is applicable.

(n) *Contractual coverage.* Losses, or any portions thereof, which have been recovered or are recoverable pursuant to contract.

(o) *Negligence of claimant.* Where the damage, loss, destruction, capture, or abandonment was caused in whole or in part by any negligence or wrongful act on the part of the claimant, or of his agent or employee acting within the scope of his employment.

(p) *Business property.* Property normally used for business or profit.

NOTE: Property, or the circumstances under which damage, loss, destruction, capture, or abandonment occurs, may be within one or more of the above categories.

§ 40.6 *Type and quantity of property.* Claims are payable under the provisions of the regulations in this part only for the damage, loss, destruction, capture, or abandonment of such types of tangible personal property including money (but see § 40.5 (a)), and such quantities or amounts theerof, the possession of which by claimant shall be determined by the adjudicating authority to be reasonable, useful, necessary, or proper under the attendant circumstances. Among such items of personal property is such property as by law or regulations is required to be possessed or used by military personnel or civilian employees of the Navy Department or of the Navy incident to their service. Claims which are otherwise within the provisions of the regulations in this part will not be disapproved for the sole reason that the property was not in the possession of the claimant at the time of the damage, loss, destruction, capture, or abandonment, or for the sole reason that the claimant was not the legal owner of the property in relation to which the claim is made; for example, property reasonable, useful, necessary, or proper to the claimant may be the subject of a claim even though borrowed from others.

§ 40.7 *Expensive articles.* Allowance for expensive articles, or for items purchased at unreasonably high prices, will be based upon fair and reasonable prices for substitute articles appropriate for the claimant under the particular circumstances of his service.

§ 40.8 *Statute of limitations.* No claim may be paid under the provisions of the regulations in this part unless presented in writing within one (1) year after the occurrence of the accident or incident out of which the claim arises: *Provided,* That if the accident or incident occurs in time of war, or if war intervenes within two (2) years after its occurrence, a claim may, if good cause for delay is shown, be presented within one (1) year after peace is established. "In time of war," as applied to conditions as of the date of the promulgation of the regulations in this part, shall include the period between December 7, 1941, and the date the war is declared to be at an end by resolution of the Congress or by proclamation of the President.

§ 40.9 *Application to pending claims.* The provisions of §§ 40.1 to 40.32, inclusive, apply to all claims otherwise within the scope hereof, not heretofore adjusted, arising out of accidents or incidents occurring on or after December 7, 1939, including claims, or portions thereof, heretofore presented and disapproved as not within the scope of the then appli-

cable laws and regulations. Claims previously filed and not heretofore adjusted or disapproved, need not necessarily be refiled under the provisions of the regulations in this part. Claims heretofore disapproved as not within the scope of the then applicable laws and regulations must be refiled in order to be given consideration under §§ 40.1 to 40.32, inclusive. All claims heretofore ascertained, adjusted and determined under the act of October 27, 1943 (57 Stat. 582, 34 U. S. C. 984–989), and for which claimant was not paid or reimbursed in kind prior to December 28, 1945, may be paid or reimbursed in kind under §§ 40.1 to 40.32, inclusive, without further approval thereof.

§ 40.10 *Demand on carrier.* Whenever property is damaged, lost, or destroyed while being transported by a carrier, the claimant should make demand in writing upon the last carrier known or believed to have handled the shipment for reimbursement for such damage, loss, or destruction. If more than one bill of lading or contract was issued, a separate demand should be made upon the last carrier under each bill of lading or contract. Such demand should be made prior to the filing of a claim against the Government under the provisions of §§ 40.1 to 40.32, inclusive, and within the period provided by statute, by regulations of the Interstate Commerce Commission, or by other applicable limitation and, in any event, within nine (9) months subsequent to the date of delivery of the shipment or, if no portion of the shipment is delivered, within nine (9) months subsequent to the date when delivery would in the normal course have been made. The liability of the carrier is governed by the terms of the bill of lading or contract. The liability of a rail carrier with respect to property shipped on a Government bill of lading is normally limited to ten (10) cents per pound for each article damaged, lost, or destroyed; the liability is normally limited to thirty (30) cents per pound if shipped by motor carrier. As the portion of any loss which is recovered or recoverable from a carrier must be deducted from the amount otherwise payable by the Government under the provisions of the regulations in this part (see § 40.5 (k)), it is important that the claimant accept from the carrier any payment correctly determined in satisfaction of the carrier's limited liability as above outlined. Copies of such demands and of any subsequent demands and related correspondence, as well as the originals of any replies, should be retained by the claimant for presentation with any claim subsequently filed against the Government under the provisions of §§ 40.1 to 40.32, inclusive. In the event the carrier denies liability, it will be presumed that no amount is recoverable, and if the carrier fails to reply to the claimant's demand within a reasonable time it will be presumed that the carrier denies liability.

§ 40.11 *Form of demand on carrier.* It is suggested that demands on carriers (see § 40.10) be made by letter in substantially the following form:

DEMAND ON CARRIER

(Name of carrier)

(Address)

(Date)

GENTLEMEN: Claim is presented by the undersigned for _____ (Loss or damage) in connection with the following shipment from _____ (Consignor), _____ (City, town, or station), to _____ (Consignee), _____ (City, town, or station), in connection with _____ (Bill of lading, contract, or baggage check) No. _____ dated _____, issued by _____, covering shipment of _____ (Household goods, footlocker, flight bag, etc.) described as follows:

Description of container (or of article if uncrated)	Approximate weight (pounds)	Nature and extent of damage	Amount claimed
Total amount of claim			

Detailed description of property lost or damaged, including identifying marks on containers:

Remarks:

Yours very truly,

(Name)

(Address)

§ 40.12 *Failure to make demand on carrier.* In cases where, under the provisions of the regulations in this part (see § 40.10), demand on a carrier is required and the claimant fails to make such demand seasonably or fails to make reasonable efforts to collect the amount recoverable from the carrier, the amount otherwise payable under the provisions of § § 40.1 to 40.32, inclusive, will be reduced by the maximum amount recoverable from the carrier if claim therefor had been filed seasonably with the carrier: *Provided,* That the circumstances of the claimant's service were not such as to preclude seasonable filing of such claim with the carrier: *And provided further,* That it shall not be found that a demand in any event was impracticable or would have been unavailing.

§ 40.13 *Demand on insurer.* Whenever property damaged, lost, destroyed, captured, or abandoned was insured in whole or in part (see § 40.5 (j)), the claimant should make demand in writing upon the insurer for reimbursement under the terms and conditions of the insurance coverage. Such demand should be made prior to the filing of claim against the Government under the provisions of §§ 40.1 to 40.32, inclusive, and within the time limit provided in the policy. Copies of such demand and of any subsequent demands and related correspondence, as well as the originals of any replies, should be retained by the claimant for presentation with any claim subsequently filed against the Government under the provisions of § § 40.1 to 40.32, inclusive. In the event the insurer denies liability it will be presumed that no amount is recoverable, and if the insurer fails to reply to the claimant's demand within a reasonable time it will be presumed that the insurer denies liability.

§ 40.14 *Failure to make demand on insurer.* In cases where, under the provisions of the regulations in this part (see § 40.13), demand on an insurer is required and the claimant fails to make such demand seasonably or fails to make reasonable efforts to collect the amount recoverable from the insurer, the amount otherwise payable under the provisions of §§ 40.1 to 40.32, inclusive, will be reduced by the maximum amount recoverable from the insurer if claim therefor had been filed seasonably with the insurer: *Provided,* That the circumstances of the claimant's service were not such as to preclude seasonable filing of such claim with the insurer: *And provided further,* That it shall not be found that a demand in any event was impracticable or would have been unavailing.

§ 40.15 *Transfer of rights against carrier or insurer.* Whenever a carrier or insurer denies liability or fails to satisfy such liability and a claim for the property in relation to which the claim is made is approved under the provisions of §§ 40.1 to 40.32, inclusive, without deduction of the amount for which the carrier or insurer is deemed liable, the claimant, by the acceptance of payment of such claim under the provisions of §§ 40.1 to 40.32, inclusive, will be deemed to have assigned to the United States, to the extent of the deductions not so made, his right, title, and interest in and to any claim he may have against the carrier or insurer and to have agreed that he will, upon request, execute and deliver to the United States a written assignment thereof together with the original or a copy of the bill of lading or contract, insurance policy, and all other papers which may be required to enable the United States to press the claim against the carrier or insurer.

§ 40.16 *Proration of recovery from carrier or insurer.* When the amount recovered or recoverable by the claimant from a carrier or insurer is less than the total loss, the amount so recovered or recoverable will be prorated between (a) the amount approved, and (b) the sum of:

(1) The amount disapproved for items not reasonable, useful, necessary, or proper;

(2) The amount disapproved for items not personal to the claimant's use;

(3) The disapproved portion of the actual value of expensive articles and of items purchased at unreasonably high prices; and

(4) The amount disapproved as the portion of damage allocated to excess baggage (see § 40.17).

§ 40.17 *Proration in event of excess baggage.* Where claim is made under § 40.4 (k) for damage, loss, or destruction of property comprising a shipment the total weight of which is in excess of the regulation allowance of baggage permitted to be shipped at Government expense, there may be approved for payment only that proportionate part of the total damage, loss, or destruction which the regulation allowance on the basis of weight bears to the total weight shipped. When two or more shipments are made under or in connection with the same orders and the regulation allowance is exhausted or exceeded by the first or by the first and succeeding shipments, all further shipments will be deemed to be not within the provisions of §§ 40.1 to 40.32, inclusive.

§ 40.18 *Claims within provisions of other regulations.* Claims within the scope of §§ 40.1 to 40.32, inclusive, and which but for the existence of the statute set forth in § 40.2 and the regulations in this part would be within the provisions of other regulations or statutes will be settled under the provisions of §§ 40.1 to 40.32, inclusive, which are pre-emptive of other claims provisions. Claims on account of damage, loss, destruction, capture, or abandonment not within the provisions of §§ 40.1 to 40.32, inclusive, should be processed under the regulations promulgated pursuant to the first section of the act of December 28, 1945 (59 Stat. 662; 31 U. S. C. 223d), and §§ 41.1 to 41.49, inclusive, of this chapter,[1] if applicable. Claims of military or civilian personnel for money or currency not deposited for safekeeping (see § 40.5 (a)), and for souvenirs, ornamental jewelry, or articles acquired to be disposed of as gifts (see § 40.5 (c)), though not within the provisions of §§ 40.1 to 40.32, inclusive, may be within the provisions of §§ 41.1 to 41.49, inclusive, of this chapter. Claims for nonpersonal items (see § 40.5 (f)), or for motor vehicles (see § 40.5 (g)), or for losses in quarters (see § 40.5 (l)), or for enemy property (see § 40.5 (h)), though not within the provisions of §§ 40.1 to 40.32, inclusive, may, in limited classes of situations, be within the provisions of §§ 41.1 to 41.49, inclusive, of this chapter.

§ 40.19 *Claimants.* Claims may be presented by the military personnel or civilian employee (or his duly authorized agent or legal representative) incident to whose service the property was damaged, lost, captured, destroyed, or abandoned. The claim, if filed by an agent or legal representative, should show the title or capacity of the person signing and be accompanied by evidence of the appointment of such person as agent, executor, administrator, or other fiduciary. In the event of the death of the military personnel or civilian employee subsequent to the accident or incident out of which the claim arose and prior to his filing a claim in person (or by a duly authorized agent), the claim may be presented by any of the following persons provided there is no person who falls within any of the categories appearing above their classification:

(a) A duly appointed executor or administrator;

(b) The widow or widower of the decedent;

(c) Any child or other descendant of the decedent;

(d) The father or mother of the decedent; or

(e) Any brother or sister, or any descendant of any brother or sister, of the decedent.

§ 40.20 *Form of claim.* Claim will be submitted by presenting a detailed statement in triplicate, signed by or on behalf of the claimant, on form NAVGEN-50,[1] except when such forms are not available through normal distribution channels, in which case a claim may be accepted on a form containing the information necessary to substantiate the claim. Attention is directed to the provisions of § 40.21 outlining specific types of evidence required in particular classes of claims; careful compliance with such requirements is essential to avoid delays resulting from the necessity of returning the claim for amplification.

§ 40.21 *Evidence in support of claim.* The claim should be supported by the date required by the claim form and, when and to the extent applicable and feasible, supplemental data and exhibits as follows:

(a) Sworn statements, by the claimant's commanding officer or officer-in-charge if possible, or by others having personal knowledge of the facts, to corroborate the claimant's statement of facts in the claim form and other evidence submitted in support of the claim. The claimant should so far as practicable, and prior to filing the claim, obtain such evidence by personal correspondence or otherwise.

(b) Statement of property recovered or replaced in kind.

(c) Statement regarding insurance, if any. Such statement should include:

(1) Type and amount of insurance.

(2) Insurance policy, or copy thereof, or explanation as to inability to furnish same.

(3) Certificate in substantially the following form:

CERTIFICATE OF DEMAND ON INSURER

_____
(Date)

I, the undersigned, hereby certify that on _____ I made written demand on
(Date)
_____ in accordance with the
(Insurer)
terms and conditions of insurance coverage by said insurer by properly mailing to such insurer a letter, a copy of which, together with the originals or copies of the policy and other agreements evidencing such coverage, is attached to this certificate. I further certify that there are also attached to this certificate originals of all replies (if any) received from, and copies of all further correspondence (if any) sent to, said insurer.

_____
(Signature of claimant)

(d) Itemized bill for repairs, if damaged property has been repaired; or written estimates, by at least one competent disinterested witness, or by two or more competitive bidders, of the probable cost of repairs, if the property is reparable and has not been repaired.

(e) In any case where the military personnel or civilian employee is deceased, or if for any other reason the claim is submitted by an agent or legal representative, an attested copy of the power of attorney or a certificate of appointment of the executor or administrator or other fiduciary or, if no such appointment has been made, a statement as to the relationship which the person presenting the claim bears to the deceased.

(f) If claim is asserted under § 40.4 (a) (saving Government property or human life), or under § 40.4 (b) (being engaged in official duties in connection with the disaster):

(1) A statement in detail as to the claimant's location, acts, and conduct immediately before, during, and immediately after the disaster, and stating facts (not mere conclusions) from which it can be determined whether (if under § 40.4 (a)) the claimant gave his attention to saving Government property or human life of another instead of the property in relation to which claim is made, or whether (if under § 40.4 (b)) performance of authorized official duties in connection with the disaster prevented the claimant from saving the property in relation to which claim is made; and

(2) A statement in detail of the actual facts and circumstances surrounding the damage, loss, destruction, or abandonment from which it can be determined whether the situation was such that the claimant could have saved property in relation to which claim is made if (under § 40.4 (a)) he had not elected to save Government property or human life of another, or if (under § 40.4 (b)) he had not been engaged in the performance of authorized official duties in connection with the disaster.

(g) If claim is asserted under § 40.4 (c) (property endangered by efforts to save Government property or human life), a statement in detail of the actual facts and circumstances surrounding the damage, loss, destruction, or abandonment, and as to the claimant's location, acts, and conduct immediately before, during, and immediately after the disaster, stating facts (note mere conclusions) from which it can be determined whether the property in relation to which claim is made was previously in a position of safety but was endangered, and was subsequently damaged, lost, destroyed, or abandoned, as a consequence of the claimant's having given his attention to saving Government property or human life of another.

[1] To be promulgated at a later date.

[1] Filed as part of the original document. Copies may be obtained from the Department of the Navy, Washington 25, D. C.

(h) If claim is asserted under § 40.4 (d) (performing official duties in connection with civil disturbance, public disaster, or disorders), or under § 40.4 (e) (property subjected to extraordinary risks), or under § 40.4 (f) (marine disaster), or under § 40.4 (g) (aircraft disaster), a statement in detail of the actual facts and circumstances surrounding the damage, loss, destruction, or abandonment.

(i) If claim is asserted under § 40.4 (h) (property furnished to others), or under § 40.4 (i) (property used for benefit of Government), a statement in detail including the date and occasion of furnishing the property, the name and designation of the superior authority directing or requesting such action, and the names of the persons to whom the property was delivered.

(j) If claim is asserted under § 40.4 (j) (property located at quarters or other authorized places), a statement in detail including, if the property was located at quarters, the geographical location thereof, whether such quarters were assigned or otherwise provided in kind by the Government, and whether the quarters were at the time regularly occupied by the claimant, and including, if the property was located at other authorized places, the geographical location thereof, the name and designation of the authority designating such place as a proper place for such property to be left or located, and including also, whether located at quarters or other authorized place, the actual facts and circumstances surrounding the damage or destruction.

(k) If claim is asserted under § 40.4 (k) (transportation losses):

(1) Copy of orders authorizing the travel, transportation, or shipment. If such copies are not obtainable, there should be included in lieu thereof a certificate, corroborated if possible by a sworn statement by at least one person explaining the absence of such orders or copies thereof, stating the substance thereof and setting forth sufficient facts to establish the travel, if any, by the claimant and the transportation or shipment of the property.

(2) Statement specifying the weight limit of claimant's regulation allowance of baggage or household effects under the attendant circumstances and total weight of the shipment.

(3) In cases of missing baggage or effects, a statement as to the steps taken by the claimant in an effort to locate the property, attaching all correspondence, including replies, pertaining to the loss.

(4) Statement, in cases where property was turned over to a quartermaster, transportation officer, supply officer, or contract packer, setting forth the following:

(i) Name (or designation) and address of quartermaster, transportation officer, supply officer, or contract packer.

(ii) Date property was turned over.

(iii) Condition when property was turned over.

(iv) When and where property was packed.

(v) Methods of packing and crating.

(vi) Date when property was shipped and reshipped.

(vii) Copies of all manifests, bills of lading, and contracts.

(viii) Date and place of delivery of property to claimant.

(ix) Date property was unpacked.

(x) Statement by quartermaster, transportation officer, or supply officer as to condition of property when received and delivered, as to handling and storage, as to reasons for and conditions of storage, whether property was handled by local carrier, and whether damage occurred during such handling.

(xi) Whether negligence on the part of any Government employee acting within the scope of his employment caused the damage, loss, or destruction.

(xii) Whether last common carrier was given a clear receipt.

(xiii) Whether local civilian carrier was given a clear receipt.

(5) Certificate, if a carrier is involved, in substantially the following form:

CERTIFICATE OF DEMAND ON CARRIER

_____
(Date)

I, the undersigned, hereby certify that on _____ (Date) I made written demand on _____ (Carrier) by properly mailing to such carrier a letter, a copy of which is attached to this certificate. I further certify that there are also attached to this certificate originals of all replies (if any) received from, and copies of all further correspondence (if any) sent to, said carrier.

_____
(Signature of claimant)

(l) If claim is asserted under § 40.4 (l) (negligence of the Government), a statement in detail setting forth the actual facts and circumstances surrounding the damage, loss, destruction, or abandonment, including the names and addresses of the Government agents or employees whose negligent acts or omissions caused the damage, loss, destruction, or abandonment, and specifying the acts or omissions claimed to have been negligent and the facts relied upon to establish that such agents or employees were acting within the scope of their employment.

(m) If claim is asserted under § 40.4 (m) (abandonment or destruction), a statement in detail by claimant, corroborated if possible by statements from claimant's commanding officer or others having personal knowledge of the facts, stating facts (not mere conclusions) from which it can be determined that the property was abandoned or destroyed by order of superior authority or by reason of military emergency requiring such abandonment or destruction.

(n) If claim is asserted under § 40.4 (n) (enemy action), or under § 40.4 (o) (lost in the field during campaign), or under § 40.4 (p) (belligerent activities):

(1) Copy of orders, or other available evidence, to establish claimant's entry into the area or location involved.

(2) Any additional evidence (including original receipts, if any, by whomever issued) to establish (if under § 40.4 (n)) that the property was damaged, destroyed, or captured by the enemy or was destroyed to prevent its falling into the hands of the enemy, or (if under § 40.4 (o)) that the property was damaged, lost, destroyed, captured, or abandoned in the field incident to combat or to movement which was part of a combat mission, or (if under § 40.4 (p)) that the property was damaged, lost, destroyed, captured, or abandoned by reason of hostile or belligerent activities in the course of warfare to which the United States was not a party, confiscation, guerilla activity, or organized brigandage, in a foreign country in which the claimant was present by reason of the performance of his duties for the Government of the United States.

(o) In cases where the evidence specified in §§ 40.1 to 40.32, inclusive, is not available due to no fault of claimant, meritorius claims may be approved for payment upon the basis of the best available evidence found satisfactory by the adjudicating authority. (See §§ 40.25, 40.26, and 40.27.)

§ 40.22 *Filing of claim.* All claims within the provisions of §§ 40.1 to 40.32, inclusive, will be submitted to the commanding officer of the organization to which the claimant belongs or with which he is serving if practicable, otherwise to the commanding officer of any naval or Marine Corps activity, as the case may be, if practicable the one nearest to the point where investigation of the facts and circumstances can most conveniently be made. In any case where submission under the foregoing provisions is impracticable, claims may be submitted direct to the Chief of Navy Personnel, the Commandant of the Marine Corps, or the Judge Advocate General of the Navy, Washington 25, D. C. Acceptance of a claim for filing will not be refused even thought the claim appears not to be within the provisions of §§ 40.1 to 40.32, inclusive.

§ 40.23 *Investigation of claim.* Upon receipt by any commanding officer of a claim under the provisions of §§ 40.1 to 40.32, inclusive, the following action will be taken:

(a) *Reference to investigating officer.* The commanding officer will refer the claim, with all the available information relating thereto, to an investigation officer appointed by him, for investigation and report.

(b) *Preparation of investigating officer's report.* The investigating officer will consider all information and evidence submitted with the claim and conduct such investigation as seems necessary and appropriate, securing and considering testimony of all competent witnesses on pertinent facts. He will give special attention to the credibility of statements by the claimant and corroborating witnesses. Direct correspondence by investigating officers in the United States with other investigating officers also in the United States is authorized; similarly, investigating officers may correspond directly with other investigating officers in the same theater of operations. Direct correspondence by investigating officers with and between theaters of operations is authorized for the purpose of tracing the location or disposition of missing baggage or effects. The investigating officer will prepare a written report of investigation including his recommendation as to the disposition

of the claim. Such investigating officer's report, with the claim and supporting papers as exhibits, will be prepared in triplicate and will be delivered in triplicate to the commanding officer. A separate report will be prepared on each claim. However, where claims of more than one person arise out of the same accident or incident and the file on any one of such claims includes data or exhibits the duplication of which and the separate inclusion thereof in the related files would be difficult or burdensome, there may be inserted in such related claims, or in the investigating officer's reports pertaining thereto, merely attested extracts with a reference to the claim file in which the data are set forth in full or to which the complete exhibits are attached; or mere reference may be made to the claim file in which the indicated detailed data or complete exhibits may be found.

(c) *Examination and approval of report.* The commanding officer or his legal officer will review the file and determine whether the findings of the investigating officer are complete, whether the facts and evidence are clearly stated, and whether the recommendation of the investigating officer is supported by adequate evidence. In proper cases he may refer such report back to the investigating officer for further investigation and the inclusion of additional data. The commanding officer or his legal officer will then, by first endorsement to the investigating officer's report, approve the report without qualification or with stated exceptions. In no event will any opinion be expressed to the claimant as to whether his claim will be approved. The endorsement shall express an opinion as to whether the possession by claimant of the property was reasonable, useful, necessary or proper under the attendant circumstances.

(d) *Statement concerning replacement in kind.* There will be included in the first endorsement to the investigating officer's report, or attached to each copy of such report, either a statement that no replacement in kind was made or, as the case may be, a list of the items so replaced and the price of each, unless the provisions of § 40.25 (b) as to replacement in kind are utilized to the extent that replacement in kind is made as to all items claimed, in which event the report, with the claim and supporting papers, will not be forwarded to higher authority than the officer authorizing replacement in kind.

(e) *Forwarding of claim to adjudicating authority.* The investigating officer's report (except as replacement in kind of all items claimed is made as permitted under § 40.25) will be forwarded, with the claim and supporting papers in triplicate, directly to the cognizant adjudicating authority (see §§ 40.25, 40.26, and 40.27).

§ 40.24 *Form of investigating officer's report.* (a) Report by the investigating officer (see § 40.23 (b)), will be submitted on form NAVGEN-51,[1] except when such form is not available through normal distribution channels, in which case the report should set forth substantially the information indicated by the form.

§ 40.25 *Navy service personnel adjudicating authority*—(a) *Claims.* The Chief of Naval Personnel, Deputy Chief of Naval Personnel, Fiscal Director, Bureau of Naval Personnel, Claims Officer and Assistant Claims Officer, Fiscal Activity, Bureau of Naval Personnel, and such other officers as may be specifically designated by the Secretary of the Navy are hereby designated and authorized to consider, adjust, and determine claims of Navy service personnel for reimbursement in cash filed under the provisions of §§ 40.1 to 40.32, inclusive.

(b) *Reimbursement in kind.* Officers of or above the rank of lieutenant commander who are (1) commanding officers, or (2) in higher echelons of command, including the officers specified in paragraph (a) of this section, or (3) senior officers present, and such other officers as may be specifically designated by the Secretary of the Navy are hereby designated and authorized to consider, ascertain, adjust, and determine claims of Navy enlisted personnel for reimbursement in kind filed under the provisions of §§ 40.1 to 40.32, inclusive.

(c) *Reimbursement.* Upon approval of claims, reimbursement shall be made by payment by the U. S. Navy Central Disbursing Office, Washington 25, D. C., from such appropriation as may be designated, or by reimbursement in kind by supply officers of the Navy, as provided in instructions issued by the Chief of Naval Personnel.

§ 40.26 *Marine Corps service personnel adjudicating authority*—(a) *Claims.* The Commandant of the Marine Corps and the Director of Personnel of the Marine Corps are hereby designated and authorized to consider, ascertain, adjust, and determine claims filed under the provisions of §§ 40.1 to 40.32, inclusive, by Marine Corps service personnel.

(b) *Reimbursement.* Upon approval of claims, reimbursement shall be made by payment by the Quartermaster General of the Marine Corps, from such appropriation as may be designated, or by reimbursement in kind as provided in instructions issued by the Commandant of the Marine Corps.

§ 40.27 *Civilian personnel adjudicating authority*—(a) *Claims.* The Judge Advocate General of the Navy, the Assistant Judge Advocate General of the Navy, and the Chief, General Law Division, Office of the Judge Advocate General, are hereby designated and authorized to consider, ascertain, adjust, and determine claims filed under the provisions of §§ 40.1 to 40.32, inclusive, by civilian personnel of the Navy and Marine Corps.

(b) *Reimbursement.* Upon approval of claims, reimbursement shall be made by payment by the U. S. Navy Central Disbursing Office, Washington 25, D. C., from such appropriation as may be designated for this purpose, or by reimbursement in kind, as provided in instructions issued by the Judge Advocate General of the Navy.

§ 40.28 *Separation from service.* Separation from the service or the Naval Establishment shall not bar service personnel or civilian employees, respectively, from filing claims, or bar the authority of the designated officers to consider, ascertain, adjust, determine, and pay claims otherwise falling within the provisions of §§ 40.1 to 40.32, inclusive, which accrued prior to such separation.

§ 40.29 *Meritorious claims not otherwise provided for.* Meritorious claims within the scope of section 2 of the act of December 28, 1945 (59 Stat. 662, 31 U. S. C. 222e), which are not specifically enumerated in §§ 40.1 to 40.32, inclusive, including claims for money or currency not meeting the requirements of § 40.5 (a), may be forwarded via official channels to the Secretary of the Navy (Judge Advocate General) for consideration, and may be approved by the Secretary of the Navy for payment in proper cases.

§ 40.30 *Appeals.* Any claimant may appeal to the Secretary of the Navy for a review of the adjustment or determination of his claim. Such appeal shall be made in writing and shall be submitted through official channels to the Secretary of the Navy (Judge Advocate General) within six months from the date the claimant receives notice of the adjudication of his claim.

§ 40.31 *Claims previously settled.* Claims which have been settled under the terms of a previously existing law shall be regarded as finally determined, and no other or further right of recovery under the provisions hereof shall accrue to persons whose claims have been so settled, except for items which were disapproved as not within the scope of the then applicable laws and regulations (see § 40.9).

§ 40.32 *Authorization for issuance of instructions.* The Chief of Naval Personnel, the Commandant of the Marine Corps, and the Judge Advocate General of the Navy, respectively, are hereby authorized to issue such instructions not in conflict herewith as may be deemed necessary from time to time to give full force and effect to the purposes of §§ 40.1 to 40.32, inclusive.

W. JOHN KENNEY,
Acting Secretary of the Navy.

[F. R. Doc. 48-5319; Filed, June 14, 1948; 8:49 a. m.]

[1] Filed as part of the original document. Copies may be obtained from the Department of the Navy, Washington 25, D. C.

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent Office, Department of Commerce

PART 1—PATENTS

SCHEDULE OF FEES

1. The following amendments are made in § 1.191 *Schedule of fees:*

a. Immediately following "For copies of drawings not in print, the reasonable cost of making them" add "For the mounting of unmounted drawings received with patent applications, providing they are of approved permanency—$1.00".

b. Immediately following "For certificate of good standing as an attorney or agent" add:

For photographic prints of patent models, building facilities, etc.:
For 5 x 7 photographic print..... .50
For 8 x 10 photographic print..... .75

(56 Stat. 1067; 5 U. S. C. 606)

[SEAL] LAWRENCE C. KINGSLAND,
Commissioner of Patents.

Approved:

CHARLES SAWYER,
Secretary of Commerce.

[F. R. Doc. 48-5330; Filed, June 14, 1948; 8:50 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 8751]

PART 3—RADIO BROADCAST SERVICES

PROMULGATION OF RULES AND TRANSMISSION STANDARDS CONCERNING FACSIMILE BROADCASTING

This proceeding was held pursuant to a notice adopted January 30, 1948, and released February 2, 1948, giving notice that a hearing would be held before the Commission en banc. Such a hearing was held on March 15, 16 and 17, 1948.

The issues in the hearing were designed to obtain information concerning the development and status of facsimile broadcasting (including both simplex and multiplex facsimile), to determine public demand for the service, to determine whether facsimile broadcasting should be authorized on a commercial basis at this time and, if so, to determine the transmission standards to be employed. Although the hearing was not limited to facsimile operation on channels in the FM band, the evidence showed that practically all operation and development work has been in this portion of the spectrum. Accordingly, the discussion that follows will be confined to facsimile in the FM band.[1]

Experimental facsimile broadcasting carried on before the war was not considered satisfactory for public acceptance on a widespread basis, principally for the reason that equipment was not adequately developed and the speed of transmission was relatively slow. Facsimile equipment and techniques developed during and after the war, however, are greatly improved, providing good facsimile transmission at a speed considered sufficient and appropriate for a broadcast service to the public. During the postwar period, representatives of the facsimile industry have been considering facsimile transmission standards to be proposed for commercial facsimile broadcasting.

Transmission standards are, of course, necessary so that any facsimile recorder may operate from any facsimile broadcast station. In discussing proposed standards, the industry groups reached agreement on all important issues with the exception of the standard that would govern the paper width to be employed.[2] Finch Telecommunications, Inc., Radio Inventions, Inc., and Faximile, Inc. (the latter two companies represent the John V. L. Hogan interests) prefer the 8.2" width. The only other principal facsimile manufacturer, Alden Products Company, prefers the 4.1" width. A committee of the Radio Manufacturers' Association proposed standards which provide for both widths. These recommendations were then considered by Panel 7 (Facsimile) of the Radio Technical Planning Board, which recommended standards providing only one index of cooperation; the recommended index, 984, would provide for 8.2" recorders operating at 105 lines per inch. This proposal would also provide for other size recorders operating under the same standards; for example, a 4.1" recorder would operate at 210 lines per inch and other sizes would be in proportion. This proposal of the R. T. P. B., however, was adopted with a dissenting vote by the Alden representative. In considering this proposal in 1947, the Commission noted that little experimentation had been conducted to determine public preferences, and suggested that further experimental operation and demonstrations be made in order to obtain more data on this subject.

While some further experimentation was conducted, it appears that little if any was of a character which would give direct comparisons of facsimile paper width from a public acceptance standpoint. Subsequently, however, the manufacturers listed above requested that standards be adopted which would provide for both the 8.2" and 4.1" recorders. It was stated that in their opinion extensive use and experience would be necessary in order to determine which paper width is preferable or whether both should be employed to render a complete service. The same viewpoint was also expressed at the hearing.

At the hearing, proponents of the 8.2" recorded size pointed out that a study of paper widths was made by a group of facsimile broadcasters and others interested in facsimile and that this group was in favor of the 8.2" width. They indicated that this width is the least necessary for proper programming and make-up of facsimile, and that a narrower width would not be satisfactory. Further, this size provides copy somewhat faster than average reading speed, and makes better use of the 200 kc channels assigned to FM broadcasting. It was also indicated that these present and potential facsimile broadcasters would not be interested in this service if equipment were limited to the 4.1" size. On the other hand, Mr. Alden was in favor of the 4.1" size, and additional testimony supported his view. He testified that facsimile will develop short, terse programs that can be adequately handled by 4.1" recorders. It appears that the narrower size recorder has been used to a considerable extent for furnishing a bulletin service, and there was testimony that abbreviated news reports, weather information, and farm prices would likely be a major field for facsimile in which the narrower recorder would be preferred.

Other factors involved in the choice of recorder width include the cost of paper and the possibility that both recorders may be used interchangeably from stations operating with either index of cooperation. While facsimile paper would, of course, be cheaper per foot for the narrower recorder, it appears that the cost on a unit area basis will likely be about the same. With respect to the use of both recorders with stations using either index of cooperation, a 4.1" recorder could be used, for example, in receiving material designed for 8.2" recorders but the reproduced material would be distorted by a ratio of 1:2. Conversely, 8.2" recorders operating from transmissions designed for 4.1" recorders would distort the transmitted material in the opposite fashion. This distortion could be remedied by changing gears in the recorder so that the proper aspect ratio would be maintained. It appears, however, that this remedy would not be fully satisfactory because, for example, the copy reproduced on a 4.1" machine may be too small to be legible unless large type were used in transmitting; this would be wasteful of paper for all 8.2" recorders tuned to that particular station. It appears, therefore, that this solution has only a limited application from a practical viewpoint.

In the Commission's opinion a broadcast service should provide for full interchangeability of equipment so that purchasers of all types of receivers are able to receive programs from all available stations. This is the only way maximum utilization of frequencies is possible. Where there is no such standardization, the result is that fewer people are served by a given number of stations than is the case where there is standardization or a greater number of stations is required to serve the same number of people. In either event a waste of frequency potentiality exists. Accordingly, the Commission concludes that only one standard should be authorized for facsimile.

A choice must, therefore, be made between the 8.2" and 4.1" paper widths. In the Commission's opinion the 8.2" paper width appears to be preferable for a broadcast service. This paper width will permit a greater flexibility in programming than in the case of the narrower paper. By and large an 8.2" paper should be capable of handling

[1] While there was no testimony during the hearing concerning facsimile operation by noncommercial educational FM broadcast stations, the Commission is considering this matter and the rule (§ 3.566) under which such stations may transmit facsimile. No action on this rule is being proposed at this time.

[2] This standard, called the "index of cooperation", is the product of the number of lines per inch times the total line length in inches; this term is a measure of the definition of the facsimile image. For example, an index of cooperation of 984=105 (lines per inch) × 8.2 (useful line length) × 8/7 (⅛ of the total line length is employed for margins and the synchronizing pulse). Similarly, a 4.1" recorder using the same number of lines per inch would have an index of cooperation of 492.

practically any program material that is carried by a newspaper. On the other hand the 4.1" paper appears to be more suitable for a bulletin type of service than an overall type of service. Some of the radio services may find such a bulletin service desirable and as is pointed out in the Commission's Allocation Report (January 15, 1945, Report, p. 148) there is no objection to such other services utilizing facsimile provided that the emissions are confined to the band authorized for the service.

The Commission also concludes that it would be in the public interest to permit facsimile broadcasting to be authorized on a commercial basis at the present time. The record shows that sufficient interest has been shown to indicate public acceptance and support of this service, that limited quantities of facsimile transmitting and receiving equipment are in production, that additional equipment will be available as the service develops, and that the standards proposed for facsimile broadcasting, particularly with reference to the 8.2" recorders, are satisfactory for the development and utilization of facsimile as a broadcast service.

Since facsimile broadcasting takes place on channels also authorized for FM broadcasting it is apparent that some conflict may develop between the two services. Facsimile broadcasting can be done in one of two ways. One way is the so-called simplex method, that is when there is facsimile broadcasting the FM broadcast operation on that channel is stopped,. The other method is multiplexing, that is simultaneous broadcasting of facsimile and FM programs on the same channels. Each method has some problems. As to the simplex method, no technical difficulties exist but since under this method FM must be silent while a facsimile program is being broadcast, it is apparent that FM listening audiences will turn away from the station when a facsimile program is being broadcast. Broadcasters who testified at the hearing agreed that this would be a factor in the building of audiences. Moreover, as FM broadcasting develops, the problem will undoubtedly become more serious.

So far as multiplexing is concerned, the difficulties are technical in nature. Since under this method FM and facsimile programs are broadcast simultaneously, a method must be devised to prevent mutual interference. Under present rules (§ 3.266) the test that must be met is that multiplexing should not reduce the quality of the aural program and that a filter or other additional equipment is not required for receivers not equipped to receive facsimile. This means that the facsimile transmissions to be permissible on a multiplex basis should not cause any degradation in the aural programs below 15,000 cycles. The witnesses agreed that this is a desirable objective but there was also agreement that the objective has not yet been attained. There was some evidence that multiplexing had been achieved which resulted in no degradation below 10,000 or 12,000 cycles. The facsimile material has, in general, been carried on in the range between 12,000 and 15,000 cycles. Experiments, using 4.1" recorders, have indicated that the background noise is slight and not objectionable. It appears that this system would be applicable to systems employing 8.2" recorders and that a higher sub-carrier frequency could be employed so that the modulating frequencies for facsimile would generally be beyond the audible range. It is apparent that such a system of multiplexing could be carried on during part of the broadcast day without adverse effect on FM broadcasting since a well rounded FM broadcast service will inevitably have some time devoted to programs which do not require the full tonal response of which FM is capable, e. g. talks, plays, discussions, etc.

The Commission is of the opinion that ultimately a suitable multiplex system must be developed if FM and facsimile are to operate in the same band. The Commission expects that extensive research will be undertaken looking toward the development of a multiplex facsimile system, particularly one which will not cause any degradation to the full tonal range of which FM is capable. However, the Commission believes that facsimile broadcasting should be permitted to proceed in the meantime.

In order to accomplish this purpose, the Commission intends to permit facsimile broadcasting both on a simplex and multiplex basis under certain conditions. This is being done by dividing the broadcast day into two segments. The first segment is the hours between midnight and 7 a. m. and the second is the hours from 7 a. m. to midnight. In the first segment, the licensee may broadcast facsimile on a simplex basis or on a multiplex basis provided that no degradation results to the aural programs below 10,000 cycles on a receiver employing no filter.

In the second period—7 a. m. to midnight—licensees may broadcast a total of one hour of facsimile programs on a simplex basis. The licensee may also broadcast during such period an additional three hours of facsimile programs on a multiplex basis provided that no degradation results to the aural program below 10,000 cycles on a receiver employing no filter. Commercial operations will be permitted for both types of facsimile transmissions during both segments.

In order that the system should work out well, the Commission expects that during multiplex operation FM licensees will so arrange their schedules that aural programs broadcast during such periods will be of a type that do not require frequency response above 10,000 cycles. Moreover, all interested persons are strongly urged to continue multiplex experimentation so that a system can be developed at an early date which involves no degradation of the aural program below 15,000 cycles. In this way, simplex operation can be eliminated entirely and multiplexing will be possible during all hours.

It is therefore ordered, This 9th day of June 1948, that the following amendments to § 3.266 of the Commission's rules and regulations and Parts 1 and 8 of the Standards of Good Engineering Practice Concerning FM Broadcast Stations be adopted, effective July 15, 1948:

Section 3.266 is amended to read as follows:

§ 3.266 *Facsimile broadcasting and multiplex transmission.* (a) FM broadcast stations may transmit simplex facsimile in accordance with transmission standards set forth in the Standards of Good Engineering Practice Concerning FM Broadcast Stations during periods not devoted to FM aural broadcasting. However, such transmissions may not exceed one hour during the period between 7 a. m. and midnight (no limit for the hours between midnight and 7 a. m.) and may not be counted toward the minimum operation required by § 3.261.

(b) FM broadcast stations may, upon securing authorization from the Commission, transmit multiplex facsimile and aural broadcast programs for a maximum of three hours between the hours of 7 a. m. and midnight (no limit for the hours between midnight and 7 a. m.) in accordance with transmission standards set forth in the Standards of Good Engineering Practice Concerning FM Broadcast Stations provided that the transmission of facsimile does not impair the quality of the aural program below 10,000 cycles per second, and that a filter or other additional equipment is not required for receivers not equipped to receive facsimile.

Sections 1 and 8 of the Standards of Good Engineering Practice Concerning FM Broadcast Stations are amended by adding the following:

SECTION 1. *Definitions.* * * *

O. *Index of cooperation.* The index of cooperation as applied to facsimile broadcasting is the product of the number of lines per inch, the available line length in inches, and the reciprocal of the line-use ratio. (e. g., 105 x 8.2 x 8/7=984)

P. *Line-use ratio.* The term "line-use ratio" as applied to facsimile broadcasting is the ratio of the available line to the total length of scanning line.

Q. *Available line.* The term "available line" means the portion of the total length of scanning line that can be used specifically for picture signals.

R. *Rectilinear scanning.* The term "rectilinear scanning" means the process of scanning an area in a predetermined sequence of narrow straight parallel strips.

S. *Optical density.* The term "optical density" means the logarithm (to the base 10) of the ratio of incident to transmitted or reflected light.

SEC. 8. *Transmitters and associated equipment.* * * *

H. *Facsimile-engineering standards.* The following standards apply to facsimile broadcasting under § 3.266 of the rules and regulations.

1. Rectilinear scanning shall be employed, with scanning spot progressing from left to right and scanned lines progressing from top to bottom of subject copy.

2. The standard index of cooperation shall be 984.

3. The number of scanning lines per minute shall be 360.

4. The line-use ratio shall be 7/8, or 315° of the full scanning cycle.

5. The ⅛ cycle or 45° not included in the available scanning line shall be divided into 3 equal parts, the first 15° being used for transmission at approximately white level, the second 15° for transmission at approximately black level, and the third 15° for transmission at approximately white level.

6. An interval of not more than 12 seconds shall be available between two pages of subject copy, for the transmission of a page-separation signal and/or other services.

7. Amplitude modulation of subcarrier shall be used.

8. Subcarrier modulation shall normally vary approximately linearly with the optical density of the subject copy.

9. Negative modulation shall be used, i. e., maximum subcarrier amplitude and maximum radio frequency swing on black.

10. Subcarrier noise level shall be maintained at least 30 db below maximum (black) picture modulation level, at the radio transmitter input.

(Secs. 301, 303 (b), (c), (e), (f), (g), 48 Stat. 1081, 1082, sec. 6 (b), 50 Stat. 191; 47 U. S. C. 301, 303 (b), (c), (e), (f), (g), (r))

Adopted: June 9, 1948.

Released: June 10, 1948.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-5334; Filed, June 14, 1948; 8:51 a. m.]

PROPOSED RULE MAKING

FEDERAL TRADE COMMISSION

[16 CFR, Ch. I]

[File No. 21-405]

FOUNTAIN PEN AND MECHANICAL PENCIL INDUSTRY

NOTICE OF HEARING AND OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS, OR OBJECTIONS

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 10th day of June 1948.

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, partnerships, corporations, organizations, or other parties, affected by or having an interest in the proposed trade practice rules for the Fountain Pen and Mechanical Pencil Industry, to present to the Commission their views concerning said rules, including such pertinent information, suggestions, or objections as they may desire to submit, and to be heard in the premises. For this purpose they may obtain copies of the proposed rules upon request to the Commission. Such views, information, suggestions, or objections may be submitted by letter, memorandum, brief, or other communication, to be filed with the Commission not later than June 30, 1948. Opportunity to be heard orally will be afforded at the hearing beginning at 10 a. m. (d. s. t.), June 30, 1948, in Room 332, Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D. C., to any such persons, partnerships, corporations, organizations, or other parties who desire to appear and be heard. After due consideration of all matters presented in writing or orally, the Commission will proceed to final action on the proposed rules.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 48-5332; Filed, June 14, 1948; 8:51 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA, NEVADA AND UTAH

AIR-NAVIGATION SITE WITHDRAWALS NOS. 1, 3, 6, 8, 10, 73 AND 120 REDUCED; NOS. 5, 30 AND 117 REVOKED

By virtue of the authority contained in section 4 of the act of May 24, 1928, 45 Stat. 729 (U. S. C. Title 49, sec. 214), it is ordered as follows:

The hereinafter-designated departmental orders, withdrawing certain lands in Arizona, Nevada, and Utah for use by the Department of Commerce in the maintenance of air-navigation facilities, are hereby revoked as to the lands listed herein following the designation of each order.

The jurisdiction over and use of such lands granted to the Department of Commerce by those orders shall cease upon the date of this order. Thereupon, the jurisdiction over and administration of such lands shall be vested in the Department of the Interior and any other Department or agency of the Federal Government according to their respective interests then of record.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on July 30, 1948. At that time the lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from July 30, 1948, to October 29, 1948, inclusive, the surveyed public lands affected by this order shall be subject to (1) application under the homestead or the desert land laws, or the small tract act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682a), as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279–283), subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2).

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from July 10, 1948, to July 29, 1948, inclusive, such veterans and persons claiming preference right superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on July 30, 1948, shall be treated as simultaneously filed.

(c) *Date for non-preference-right-filings authorized by the public-land laws.* Commencing at 10:00 a. m. on October 30, 1948, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous non-preference-right filings.* Applications by the general public may be presented during the 20-day period from October 9, 1948, to October 29, 1948, inclusive, and all such applications, together with those presented at 10:00 a. m. on October 30, 1948, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the land office for the district in which the lands are situated, namely, at Phoenix, Arizona, Carson City, Nevada, or Salt Lake City, Utah, shall be acted upon in accordance with the regulations contained in § 295.8 of

Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254), and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations and applications under the desert land laws and the small tract act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the District Land Offices at Phoenix, Arizona, Carson City, Nevada, or Salt Lake City, Utah.

The lands affected by this order are described as follows:

ARIZONA

GILA AND SALT RIVER MERIDIAN

Land Withdrawn by the Order of August 1, 1928; Air-Navigation Site Withdrawal No. 5

T. 41 N., R. 15 W.,
Sec. 17.

The area described contains 640 acres.

NEVADA

MOUNT DIABLO MERIDIAN

Land Withdrawn by the Order of July 24, 1928; Air-Navigation Site Withdrawal No. 3

T. 34 N., R. 67 E.,
Sec. 6, SE¼SE¼.

The area described contains 40 acres.

Land Withdrawn by the Order of August 13, 1928; Air-Navigation Site Withdrawal No. 6

T. 29 N., R. 39 E.,
Sec. 32, NW¼SW¼.

The area described contains 40 acres.

Land Withdrawn by the Order of August 20, 1928; Air-Navigation Site Withdrawal No. 8

T. 13 S., R. 69 E.,
Sec. 30, SE¼SW¼.

The area described contains 40 acres.

Land Withdrawn by the Order of March 2, 1929; Air-Navigation Site Withdrawal No. 10

T. 23 N., R. 28 E.,
Sec. 18, E½SE¼.

The area described contains 80 acres.

Lands Withdrawn by the Order of May 12, 1938; Air-Navigation Site Withdrawal No. 120

T. 14 S., R. 67 E.,
Sec. 12, S½;
Sec. 13, NW¼;
T. 10 S., R. 71 E., unsurveyed,
Sec. 17, W½;
Sec. 18, NE¼;
Sec. 20, W½.

The areas described aggregate 1,280 acres.

UTAH

SALT LAKE MERIDIAN

Lands Withdrawn by the Order of July 3, 1928; Air-Navigation Site Withdrawal No. 1

T. 12 S., R. 3 W.,
Sec. 5, SW¼SW¼.
T. 7 S., R. 4 W.,
Sec. 21, NW¼NW¼.
T. 8 S., R. 4 W.,
Sec. 4, SW¼SE¼;
Sec. 34, SW¼NE¼.
T. 10 S., R. 4 W.,
Sec. 25, SE¼SW¼.
T. 13 S., R. 4 W.,
Sec. 12, NE¼SW¼;
Sec. 28, NE¼SE¼.
T. 5 S., R. 5 W.,
Sec. 1, NW¼NE¼.
T. 15 S., R. 5 W.,
Sec. 9, NW¼SE¼;
Sec. 30, NW¼NE¼.
T. 16 S., R. 6 W.,
Sec. 11, NW¼NE¼;
Sec. 21, NE¼SE¼.
T. 32 S., R. 12 W.,
Sec. 7, lot 1.

The areas described aggregate 536.99 acres.

Lands Withdrawn by the Order of July 24, 1928; Air-Navigation Site Withdrawal No. 3

T. 20 S., R. 8 W.,
Sec. 14, SW¼;
T. 26 S., R. 10 W.,
Sec. 10, SE¼SW¼.

The areas described aggregate 200 acres.

Land Withdrawn by the Order of May 31, 1929; Air-Navigation Site Withdrawal No. 30

T. 42 S., R. 16 W.,
Sec. 25, SW¼SE¼.

The area described contains 40 acres.

Lands Withdrawn by the Orders of December 30, 1931 and June 2, 1938; Air-Navigation Site Withdrawal No. 73

T.1 S., R. 19 W.,
Sec. 20, N½NE¼, SE¼NE¼, E½SW¼ NW¼, E½W½SW¼, SE¼SW¼, and S½SE¼.

The area described contains 300 acres.

Lands Withdrawn by the Order of April 25, 1938; Air-Navigation Site Withdrawal No. 117

T. 22 S., R. 8 W.,
Sec. 6, W½SW¼;
Sec. 7, NW¼NW¼.
T. 22 S., R. 9 W.,
Sec. 1, SE¼;
Sec. 12, NE¼.

The areas described aggregate approximately 440 acres.

The lands in Air-Navigation Site Withdrawal No. 73 are withdrawn by Executive Order No. 8652 of January 28, 1941 for the use of the War Department.

These tracts vary from rough and rocky to hilly and mountainous in character.

MASTIN G. WHITE,
Acting Assistant Secretary of the Interior.

MAY 28, 1948.

[F. R. Doc. 48-5333; Filed, June 14, 1948; 8:51 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. SA-171]

ACCIDENT OCCURRING NEAR PORT COLUMBUS, COLUMBUS, OHIO

NOTICE OF HEARING

In the matter of investigation of accident involving aircraft of United States Registry NC-59489, which occurred near Port Columbus, Columbus, Ohio, May 16, 1948.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said act, in the above-entitled proceeding that hearing is hereby assigned to be held on Wednesday, June 16, 1948, at 9:30 a. m. (local time), in Room 114, Sherman Hotel, Chicago, Illinois.

Dated this 9th day of June 1948, in Washington, D. C.

[SEAL] FRANCIS H. MCADAMS,
Presiding Officer.

[F. R. Doc. 48-5355; Filed, June 14, 1948; 8:56 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6149]

MINNESOTA POWER AND LIGHT CO. AND SUPERIOR WATER, LIGHT AND POWER CO.

ORDER SUSPENDING RATE SCHEDULES AND FIXING DATE OF HEARING

It appears to the Commission that:

(a) Minnesota Power and Light Company (hereinafter "Power Company") on May 12, 1948, submitted for filing two supplemental agreements dated April 30, 1948, and proposed to become effective May 1, 1948, with its wholly owned subsidiary, Superior Water, Light and Power Company (hereinafter "Superior")[1]. The supplemental agreements have been designated as Supplements Nos. 3 and 4 to Power Company's Rate Schedule FPC No. 6. At the same time Superior submitted Certificates of Concurrence which have been designated as Supplements Nos. 1 and 2 to its Rate Schedule FPC No. 3.

(b) Power Company's Supplement No. 3 to Rate Schedule FPC No. 6 and Superior's Supplement No. 1 to its Rate Schedule FPC No. 3 propose to revise present arrangements for standby service between the parties, while Power Company's Supplement No. 4 to Rate Schedule FPC No. 6 and Superior's Supplement No. 2 to its Rate Schedule FPC No. 3 propose an additional rate schedule for firm service by Power Company to Superior. Together, these supplements effect a change in rates and classifications of service.

(c) The proposed supplements may result in an increase of approximately 42% or $54,291.00 per year in the rates charged by Power Company for the sale of electric energy at wholesale to Superior.

(d) The rates, charges, classifications, services, rules, regulations and practices as set forth in Power Company's Supplements Nos. 3 and 4 to Rate Schedule FPC No. 6 and Superior's Supplements Nos. 1 and 2 to Rate Schedule FPC No. 3 may be unjust, unreasonable, or otherwise unlawful and have not been shown to be justified.

(e) Power Company and Superior have requested that the proposed supplemental rate schedules be allowed to take effect as of May 1, 1948.

(f) Unless suspended by Commission order, the aforementioned supplements would become effective as of June 12, 1948, pursuant to the provisions of the Federal Power Act and the regulations of the Commission thereunder, or on May 1, 1948, if so permitted by order of the

[1] Power Company had originally filed the two supplements on March 22, 1948, (the filing date subsequently became April 22, 1948, upon receipt of additional data required by the rules) which supplements were superseded by the filing made on May 12, 1948.

Commission waiving the statutory 30 days' notice.

The Commission finds that: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed rates, charges, classifications, and services as set forth in Power Company's Supplements Nos. 3 and 4 to Rate Schedule FPC No. 6 and Superior's Supplements Nos. 1 and 2 to Rate Schedule FPC No. 3 and that said Supplements be suspended and use deferred pending such hearing and decision thereon.

The Commission orders that:

(A) A public hearing be held commencing July 26, 1948, at 10 a. m. (e. d. t.) in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue, N. W., Washington, D. C., concerning the lawfulness of the rates, charges, classifications and services subject to the jurisdiction of the Commission as set forth in Supplements Nos. 3 and 4 to Minnesota Power and Light Company Rate Schedule FPC No. 6 and Supplements Nos. 1 and 2 to Superior Water, Light and Power Company Rate Schedule FPC No. 3.

(B) Pending such hearing and decision thereon, Supplements Nos. 3 and 4 to Power Company's Rate Schedule FPC No. 6, and Supplements Nos. 1 and 2 to Superior's Rate Schedule FPC No. 3, referred to in paragraph (a) above, be and they hereby are suspended and use thereof is deferred until November 12, 1948, and thereafter, such supplemental rate schedules shall go into effect in the manner prescribed by the Commission in accordance with the Federal Power Act.

(C) During the period of suspension Minnesota Power and Light Company Rate Schedule FPC No. 6 and Supplements Nos. 1 and 2 thereto and Superior Water, Light and Power Company Rate Schedule FPC No. 3 shall remain and continue in full force and effect.

(D) Interested state commissions may participate as provided by Rules 8 and 37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Date of issuance: June 9, 1948.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 48-5315; Filed, June 14, 1948; 8:46 a. m.]

[Docket No. G-1052]

TEXAS GAS TRANSMISSION CORP.

NOTICE OF APPLICATION

JUNE 9, 1948.

Notice is hereby given that on May 24, 1948, Texas Gas Transmission Corporation (Applicant), a Delaware corporation with its principal place of business at Owensboro, Kentucky, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of a meter station on Applicant's main natural gas transmission pipe line near Fruit Hill, Christian County, Kentucky, for the purpose of delivering natural gas to Western Kentucky Gas Company for distribution in the town of Greenville, Muhlenburg County, Kentucky.

Applicant states that Western Kentucky Gas Company has served the town of Greenville, Kentucky, in the past from local wells whose production has been decreasing, while the consumer demands have increased, making it necessary to secure an additional gas supply. Applicant also states that the required construction to connect the town of Greenville, except the meter station, will be built by Western Kentucky Gas Company.

Applicant further states that the peak day deliveries will not exceed 350 Mcf for the first five years. Western Kentucky desires to purchase natural gas from Applicant for resale to domestic or commercial customers only.

The estimated total over-all capital cost of construction of the proposed facilities is $2,500, and will be financed out of cash on hand.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 1.37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Texas Gas Transmission Corporation is on file with the Commission and open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rule 1.8 or Rule 1.10, whichever is applicable, of such rules of practice and procedure (18 CFR 1.8 or 1.10).

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 48-5328; Filed, June 14, 1948; 8:50 a. m.]

[Docket No. G-1053]

TEXAS GAS TRANSMISSION CORP.

NOTICE OF APPLICATION

JUNE 9, 1948.

Notice is hereby given that on May 24, 1948, Texas Gas Transmission Corporation (Applicant), a Delaware corporation with its principal place of business at Owensboro, Kentucky, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of a meter station at a point approximately 4½ miles south of Carlisle, Indiana, on Applicant's 6-inch Oaktown Discharge Line running westwardly from its main north-south pipe line to the Oaktown storage field, for the purpose of delivering natural gas to the Town of Carlisle for distribution in that town.

Applicant states that the town of Carlisle, Indiana, is not now being served with gas of any kind, and that the required construction to connect the town, except the meter station, will be built by the Board of Trustees, Town of Carlisle, Indiana.

Applicant further states that the peak day deliveries will not exceed 100 Mcf for the first five years. The Town of Carlisle, Indiana, desires to purchase natural gas from Applicant for resale to domestic or commercial customers, and one industrial customer.

The estimated total over-all capital cost of construction of the proposed facilities is $1,500, and will be financed out of cash on hand.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 1.37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Texas Gas Transmission Corporation is on file with the Commission and open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rule 1.8 or Rule 1.10, whichever is applicable, of such rules of practice and procedure (18 CFR 1.8 or 1.10).

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 48-5329; Filed, June 14, 1948; 8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 790, Amdt. 13 to Special Directive 25]

BALTIMORE AND OHIO RAILROAD CO.

ORDER TO FURNISH CARS FOR RAILROAD COAL SUPPLY

Upon further consideration of the provisions of Special Directive No. 25 (12 F. R. 8389; 13 F. R. 301, 407, 1272, 1292, 2420), under Service Order No. 790 (12 F. R. 7791), and good cause appearing therefor:

It is ordered, That Special Directive No. 25, be, and it is hereby amended by substituting paragraph (1) hereof for paragraph (1) thereof:

(1) To furnish to the mines listed below cars for the loading of The Central Railroad Company of New Jersey fuel coal in the number specified from its total available supply of cars suitable for the transportation of coal:

Mine:	Cars for June 1948
Katherine & Pepper	95
Linda	20
Cliff	30
Elk Hill	25
Roberta	40
Henshaw	20
Riley	30
McCandlish	20
Adrian	50
Linda (Sitnek)	12
Ronay (Ferguson)	6
Burns	20
Alpha	16
Cain	16
Berryburg	25
Berkebile	20
Crossland	20

A copy of this amendment shall be served upon The Baltimore and Ohio Railroad Company and notice of this amendment shall be given the public by depositing a copy in the office of the Secretary of the Commission, Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

Issued at Washington, D. C., this 9th day of June A. D. 1948.

INTERSTATE COMMERCE COMMISSION,
HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 48-5327; Filed, June 14, 1948; 8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 54-170]

NIAGARA HUDSON POWER CORP.

NOTICE OF FILING AND ORDER FOR HEARING ON PLAN

At a regular session of the Securities and Exchange Commission, held at its offices in the city of Washington, D. C., on the 7th day of June 1948.

Notice is hereby given that Niagara Hudson Power Corporation ("Niagara Hudson"), a subsidiary of The United Corporation, a registered holding company, has filed an application for approval of a plan, under section 11 (e) of the Public Utility Holding Company Act of 1935, proposing the consolidation of three of Niagara Hudson's principal public-utility subsidiaries into a single operating company.

All interested persons are referred to said application which is on file in the offices of this Commission for a statement of the transactions therein proposed, which may be summarized as follows:

Niagara Hudson owns all the outstanding shares of the common stock of its three principal subsidiaries which are to be consolidated, namely, Buffalo Niagara Electric Corporation ("Buffalo Niagara"), Central New York Power Corporation ("Central New York") and New York Power and Light Corporation ("New York Power").

In general, under the plan it is proposed to consolidate Buffalo Niagara, Central New York and New York Power into the Consolidated Company which initially and temporarily will be named Buffalo Niagara Electric Corporation. Thereafter the name will be changed to Niagara Hudson Power Corporation as soon as that name becomes available.

The outstanding securities of the consolidating corporations as of March 31, 1948, are as follows:

	Buffalo Niagara	Central New York	New York Power
Long term debt:			
Funded debt	$56,360,000	$50,872,000	$48,785,000
Notes payable	5,000,000	5,511,000	
Total long term debt	61,360,000	56,383,000	48,785,000
Capital stock:			
Preferred stock—$100 par value 3.60 percent series—350,000 shares	35,000,000		
3.40 percent series—200,000 shares		20,000,000	
3.90 percent series—240,000 shares			24,000,000
Common stock—no par value:			
3,000,000 shares outstanding	22,000,000		
1,331,358 shares outstanding		15,244,049	
1,300,000 shares outstanding			13,137,107
Total securities	118,360,000	91,627,049	85,922,107

Under the provisions of the plan all of the long-term debt and liabilities of the three consolidating companies will be assumed by the Consolidated Company.

The plan proposes that the Consolidated Company issue initially an aggregate of 790,000 shares of Preferred Stock, par value of $100 per share, consisting of 350,000 shares of 3.60% Series, 200,000 shares of 3.40% Series, and 240,000 shares of 3.90% Series, and a presently undetermined number of shares of Common Stock without par value, to have an aggregate stated value of not less than $80,000,000. These shares of Preferred and Common Stocks will be distributed as follows:

(a) Each holder of shares of the Preferred Stock, 3.60% Series, of Buffalo Niagara shall become the holder of one share of the Preferred Stock, 3.60% Series, of the Consolidated Company for each such share held;

(b) Each holder of shares of the Preferred Stock, 3.40% Series, of Central New York shall become the holder of one share of the Preferred Stock, 3.40% Series, of the Consolidated Company for each such share held;

(c) Each holder of shares of the Preferred Stock, 3.90% Series, of New York Power shall become the holder of one share of the Preferred Stock, 3.90% Series, of the Consolidated Company for each such share held.

(d) Niagara Hudson as holder of the Common Stocks of Buffalo Niagara, Central New York and New York Power outstanding at the effective date of the consolidation shall become the holder of all of the shares of the Common Stock of the Consolidated Company initially to be issued in lieu of the shares of Common Stock of Buffalo Niagara, Central New York or New York Power held by it.

Each holder of shares of the Preferred Stocks of Buffalo Niagara, Central New York or New York Power shall further be entitled to receive an amount in cash equal to unpaid dividends accrued on his respective shares of such Preferred Stocks to the effective date of the consolidation.

The plan provides that Niagara Hudson will pay such fees and remuneration for services rendered and make such reimbursement for proper costs incurred in connection with the plan, and the proceedings relating thereto, as the Commission shall finally determine, award, allow or allocate upon petition of any interested person.

The proposed consolidation provided for in the plan is subject to the approval of the Public Service Commission of the State of New York, which adopted a memorandum dated May 5, 1948, indicating that its assent thereto would be forthcoming upon compliance with conditions contained in said memorandum.

The plan is subject to the following conditions:

(1) The plan may be supplemented, amended, modified or abandoned, in whole or in part, by action of the Board of Directors of Niagara Hudson at any time prior to the approval by the Commission. After being approved by the Commission, the plan may be supplemented, amended, modified or abandoned, in whole or in part, by action of the Board of Directors of Niagara Hudson with the approval of the Commission.

(2) The consolidation shall have received the consent thereto of the Public Service Commission of the State of New York.

(3) The Commission shall apply to a court of competent jurisdiction, pursuant to sections 11 (e) and 18 (f) of the act, and such court shall have entered an order finding the plan to be fair and equitable and necessary or appropriate to effectuate the provisions of section 11 of the act and directing action to be taken to carry out the terms and provisions of the plan.

(4) The order of the Commission approving the plan shall recite that the transactions of the plan are necessary or appropriate to the simplification of the structure of the holding company system of which Niagara Hudson is a member, and necessary or appropriate to effectuate the provisions of section 11 (b) of the act, all in accordance with the meaning and requirements of the Internal Revenue Code, as amended, including section 1808 (f) and Supplement R thereof.

The Commission being required by the provisions of section 11 (e) of the act,

before approving any plan submitted thereunder, to find after notice and opportunity for hearing that the plan, as submitted, or as amended, is necessary to effectuate the provisions of subsection (b) of section 11, and is fair and equitable to the persons affected thereby; and it appearing appropriate that notice be given and a hearing held with respect to said plan, and that said plan shall not become effective except pursuant to further order of the Commission:

It is ordered, That a hearing under the applicable provisions of the act and the rules thereunder be held at 10:00 a. m., e. d. s. t., on June 29, 1948, in the offices of the Securities and Exchange Commission, 425 2d Street NW., Washington, D. C., in such room as may be designated on that day by the hearing clerk in Room 101. In the event that amendments to the plan are filed during the course of said proceedings, no notice of such amendments will be given unless specifically ordered by the Commission. Any person desiring to receive further notice of the filing of any additional plans or amendments should file an appearance in these proceedings or otherwise specifically request such notice. Any person desiring to be heard in connection with this proceeding, or proposing to intervene herein, shall file with the Secretary of the Commission, on or before June 25, 1948, his request and application therefor as provided in Rule XVII of the rules of practice of the Commission.

It is further ordered, That Richard Townsend, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of the application and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the plan, as submitted or as may be amended, is necessary to effectuate the provisions of section 11 (b) of the act.

(2) Whether the plan, as submitted or as may be amended, is fair and equitable to the persons affected thereby.

(3) Whether the transactions proposed in such plan comply with all the requirements of the applicable provisions of the act and the rules promulgated thereunder.

(4) Whether and to what extent the plan, as submitted or as may be amended, should be modified, or terms and conditions imposed, to insure adequate protection of the public interests and the interest of investors and consumers, and to prevent circumvention of the act and rules and regulations thereunder.

(5) Whether the fees, expenses and other remuneration which may be claimed in connection with the plan, and transactions incident thereto, are for necessary services and are reasonable in amount.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve notice of the aforesaid hearing by mailing copies of this order by registered mail to Niagara Hudson Power Corporation, Buffalo Niagara Electric Corporation, Central New York Power Corporation, New York Power and Light Corporation, and the Public Service Commission of the State of New York, and that notice be given to all other persons by general release of the Commission distributed to the press and mailed to the mailing list for releases issued pursuant to the Public Utility Holding Company Act of 1935, and that further notice be given to all persons by publication of this notice and order in the FEDERAL REGISTER.

It is further ordered, That Niagara Hudson Power Corporation give notice of this hearing to all holders of the preferred stocks of Buffalo Niagara Electric Corporation, Central New York Power Corporation, and New York Power and Light Corporation (in so far as the identity of such stockholders is known and available to Niagara Hudson) by mailing a copy of the plan and a copy of this notice and order at least 15 days prior to June 29, 1948, the date of said hearing.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-5320; Filed, June 14, 1948; 8:49 a. m.]

[File No. 70-1775]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE

ORDER PERMITTING WITHDRAWAL OF APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 8th day of June A. D. 1948.

Public Service Company of New Hampshire, a public utility subsidiary of New England Public Service Company, a registered holding company, having filed an application, and amendment thereto, pursuant to the first sentence of section 6 (b) of the Public Utility Holding Company Act of 1935, proposing to borrow from one or more banks, from time to time, a maximum amount of $5,210,429 (including $2,720,000 outstanding notes as of April 7, 1948), and to issue or renew, from time to time, in evidence thereof its promissory notes with a maturity of nine months or less, until the company shall have received the proceeds from its proposed issue and sale of 139,739 shares of common stock; and

A public hearing having been held on said application, as amended, and at the request of the company, the matter having been held in abeyance pending the issue and sale by the company of 139,739 shares of common stock; and

Applicant having requested permission to withdraw said application, as amended, and having stated in support of such request that the company has now received the proceeds from the issue and sale of 139,739 shares of common stock; and

It appearing to the Commission that the proposed borrowings have become unnecessary and that the withdrawal of said application, as amended, is consistent with the public interest;

It is ordered, That the request of the applicant be, and it hereby is granted, and said application, as amended, be, and it hereby is deemed withdrawn.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-5321; Filed, June 14, 1948; 8:49 a. m.]

[File No. 812-546]

GRAHAM NEWMAN CORP.

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C. on the 9th day of June A. D. 1948.

Notice is hereby given that Graham Newman Corporation of New York City, New York ("applicant"), a registered investment company, has filed an application under section 6 (c) of the Investment Company Act of 1940 for an order of the Commission exempting from the provisions of section 12 (d) (2) of the act the consummated purchase by the applicant of 1500 shares, representing 50%, of the capital stock of Government Employees Insurance Company ("Insurance Company") of Washington, D. C. from certain stockholders of Insurance Company. Section 12 (d) (2) of the act, with certain exceptions not pertinent here, prohibits the purchase or acquisition by a registered investment company, and any company or companies controlled by it, of more than 10% in the aggregate of the total outstanding voting stock of any insurance company unless at the time of such purchase or acquisition the registered investment company, and any company or companies controlled by it, own in the aggregate at least 25% of the total outstanding voting stock of such insurance company.

It is stated in the application that applicant in good faith overlooked the provisions of section 12 (d) of the act when it unlawfully acquired 1,500 shares of the capital stock of Insurance Company; that, upon being advised by the Commission's staff of the apparent violation, steps were immediately taken to devise a program for compliance with the pertinent provisions of the act; that the applicant proposes to divest itself by distributing pro rate, to its own security holders the shares of Insurance Company held by it; that to effectuate the program the stock of the Insurance Company has been split to permit the pro rata distribution by applicant to its se-

curity holders; that each representative of the applicant in the management of Insurance Company will resign effective as of the date of a special meeting to elect their successors who will be sponsored by the minority security holders of Insurance Company; and that, upon the issuance of the requested order of exemption, applicant and the persons associated with it in the acquisition will secure from each of the vendors of the stock of the Insurance Company, all but one of whom have indicated that they have no wish to rescind the transaction, an instrument confirming, ratifying and approving the original sale to the applicant and its associates and, to the extent that such an instrument is not obtained from any such vendor, a number of shares equal to the number acquired from such vendor will be tendered in rescission. It is further stated that an order of exemption is sought to obviate the possible effect of section 47 of the act, which relates to the invalidity of contracts made in violation of the act, and to remove any doubt as to the title to the stock of the persons in whose hands the stock may come finally to rest; that such an order of exemption would be consistent with the policy and provisions of the act insofar as it would facilitate divestment by the applicant of its unlawful acquisition of the stock of the Insurance Company and would permit prompt settlement of the validity of the interest of the security holders of the applicant in the stock of the Insurance Company held by the applicant.

All interested persons are referred to said application which is on file at the Washington, D. C. offices of this Commission for a more detailed statement of the matters of fact and law therein asserted.

Notice is further given that an order granting the application in whole or in part, and upon such conditions as the Commission may deem necessary or appropriate, may be issued by the Commission at any time after June 21, 1948 unless prior thereto a hearing upon the application is ordered by the Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than June 18, 1948 at 5:30 p. m., e. d. s. t., submit to the Commission in writing his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48-5322; Filed, June 14, 1948; 8:49 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 11259]

JOHANN HERMANN HESSE

In re: Bank account owned by Johann Hermann Hesse. D-28-2286-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Johann Hermann Hesse, whose last known address is Fuldastrasse 7, Bremen, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation of the Union Trust Company of the District of Columbia, 15th and H Streets NW., Washington, D. C., arising out of a trust account entitled John C. Hesse, for Elizabeth Hesse, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Johann Hermann Hesse, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5335; Filed, June 14, 1948; 8:52 a. m.]

[Vesting Order 11286]

PHILIP LIPPERT

In re: Estate of Philip Lippert, deceased. File No. D-28-10166; E. T. sec. 14467.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mrs. John P. Heögner, Mrs. Theodore Lippert, Nickolaus Lippert, Lena Lippert, Marie Lippert, Nickolaus Lippert and Katie Lippert, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the children, names unknown, of Eva Krippes, deceased, child, name unknown, of Nickolaus Lippert, deceased, and the widow and children, names unknown, of Mathias Lippert, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Philip Lippert, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by Anthony L. Gottschlich, as Executor, acting under the judicial supervision of the Probate Court of Kenosha County, Wisconsin;

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof and the children, names unknown, of Eva Krippes, deceased, child, name unknown, of Nickolaus Lippert, deceased, and widow and children, names unknown, of Mathias Lippert, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5336; Filed, June 14, 1948; 8:52 a. m.]

[Vesting Order 11298]

JACOB SCHANTZ

In re: Estate of Jacob Schantz, deceased. File No. D-28-10044; E. T. sec. 14255.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Karl Weber, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in sub-paragraph 1 hereof in and to the Estate of Jacob Schantz, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by Meade Chamberlin, as Administrator, d. b. n., c. t. a., acting under the judicial supervision of the Probate Court of Summit County, Ohio;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5337; Filed, June 14, 1948; 8:52 a. m.]

[Supp. Vesting Order 11299]

MICHAEL SCHONHER

In re: Estate of Michael Schonher, also known as Michael Schoener, deceased. File No. D-34-815; E. T. sec. 12761.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Anna Frank, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the Estate of Michael Schonher, also known as Michael Schoener, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by R. W. Allard and Minnie Plaster, administrators, acting under the judicial supervision of the Probate Court of Ramsey County, St. Paul, Minnesota;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5338; Filed, June 14, 1948; 8:52 a. m.]

[Vesting Order 11317]

HEDVIG GAPSCH

In re: Estate of Hedvig Gapsch, deceased. File No. D-28-11677; E. T. sec. 15881.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Herman Barthel, Otto Barthel, Oscar Barthel and Lena Ehrhardt, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the Estate of Hedvig Gapsch, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Albert Gapsch, as Administrator, acting under the judicial supervision of the County Court of Sarpy County, Nebraska;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 1, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5340; Filed, June 14, 1948; 8:52 a. m.]

[Vesting Order 11322]

ADELE KAHLE ET AL.

In re: Trust agreement dated March 6, 1926, between Adele Kahle, grantor, and Roland L. Kahle and Mississippi Valley Trust Company, trustees. Files D-28-4028 and D-28-4028 G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Manfred Geyer, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to and arising out of or under that certain trust agreement dated March 6, 1926, by and between Adele Kahle, grantor, and Roland L. Kahle and Mississippi Valley Trust Company, trustees, presently being administered by Mississippi Valley Trust Company, 225 No. Broadway, St. Louis 2, Missouri, and Milton Kahle, 2001 Kingshighway, St. Louis, Missouri, as trustees,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 1, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5342; Filed, June 14, 1948; 8:52 a. m.]

[Return Order 136]

JACQUES REINHARDT

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,[1]

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant and Claim No., Notice of Intention to Return Published, and Property

Jacques Reinhardt, Obenheim France, Claim No. 5511, April 23, 1948 (13 F. R. 2210), $3,556.13 in the Treasury of the United States.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on June 8, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5351; Filed, June 14, 1948; 8:55 a. m.]

[Vesting Order 11326]

CAROLINE KLAWUN LESLIE

In re: Estate of Caroline Klawun Leslie, deceased. File D-28-11882; E. T. sec. 16074.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Franz Schlick, Elizabeth Weigel and Emma Mueller, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the Estate of Caroline Klawun Leslie, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Charles H. Hahn, as executor, acting under the judicial supervision of the Probate Court of the State of Indiana, in and for the County of St. Joseph;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all actions required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 1, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5343; Filed, June 14, 1948; 8:52 a. m.]

[Vesting Order 11336]

MARGARETHA SCHRUM SIEVERS

In re: Trust u/w of Margaretha Schrum Sievers, deceased. D-28-12309; E. T. sec. 16514.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Anna Margaretha Schrum Jess, Timm Heinrich Jess, Helene Marguerite Jess, Amanda Auguste Jess and Claudine Jakoline Marguerite Jess whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in sub-paragraph 1 hereof in and to the Trust u/w of Margaretha Schrum Sievers, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by John R. Brandt, as trustee, acting under the judicial supervision of the County Court of the State of Nebraska, in and for the County of Douglas;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 1, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5345; Filed, June 14, 1948; 8:54 a. m.]

[Vesting Order 11369]

FREDERICK S. LYMAN ET AL.

In re: Deed of trust of Frederick S. Lyman and Mary B. Lyman, his wife, to Bishop Trust Company, Ltd., Honolulu, T. H. File No. F-39-6141-A-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Setsu Yokogawa, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That all right, title, interest and claim of any kind or character whatsoever of the person identified in subparagraph 1 hereof, in and to and arising out of or under that certain trust agreement dated October 17, 1919, as amended September 17, 1926 by and between Frederick S. Lyman, Mary S. Lyman, his wife, Settlors, and Bishop Trust Company Ltd., Honolulu, T. H. as trustee,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

[1] Filed as part of the original document.

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 2, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48—5347; Filed, June 14, 1948; 8:54 a. m.]

[Vesting Order 9044, Amdt.]

S. FRENKEL

In re: Stock owned by S. Frenkel.

Vesting Order 9044, dated May 21, 1947, is hereby amended as follows and not otherwise: By deleting from subparagraph 2 of said Vesting Order 9044 the words "No par value" set forth with respect to fifty (50) shares of common capital stock of Texas and Pacific Railway Company, Texas and Pacific Building, Dallas, Texas, and substituting therefor "$100.00 par value".

All other provisions of said Vesting Order 9044 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5349; Filed, June 14, 1948; 8:55 a. m.]

[Vesting Order 11371]

OTTO MAURER

In re: Estate of Otto Maurer, deceased. File No. D-28-12358; E. T. sec. 16578.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Elizabeth Maurer Lang and Jacob Maurer, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, and each of them, in and to the estate of Otto Maurer, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by John C. Glenn, Public Administrator of Queens County, as Administrator, acting under the judicial supervision of the Surrogate's Court of Queens County, New York;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 2, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5348; Filed, June 14, 1948; 8:55 a. m.]

[Vesting Order 9821, Amdt.]

WOLFF G. BAWLITZA

In re: Bonds owned by Wolff G. Bawlitza.

Vesting Order 9821, dated September 15, 1947, is hereby amended as follows and not otherwise:

By deleting subparagraph 2a of said Vesting Order 9821 and substituting therefor the following:

2a. Two (2) Rosa Properties, Inc 1st Mortgage R. E. 7% Bonds, each of $500.00 face value, bearing the numbers 15 and 20, due September 24, 1934 and September 24, 1935 respectively, presently in the custody of Corn Exchange Bank and Trust Company, Williams and Beaver Streets, New York 15, N. Y., together with any and all rights thereunder and thereto.

All other provisions of said Vesting Order 9821 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5350; Filed, June 14, 1948; 8:55 a. m.]

[Return Order 137]

WALTER BERNHARD

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith.[1]

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant and Claim No., Notice of Intention to Return Published, and Property

Walter Bernhard, Berlin-Halensee, Germany, Claim No. 11657, April 23, 1948 (13 F. R. 2210); $19,456.43 in the Treasury of the United States. 600 shares of no par value common capital stock of Pierce Governor Company, Inc., Anderson, Indiana, registered in the name of the Attorney General, presently in custody of the Safekeeping Department of the Federal Reserve Bank of New York.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on June 9, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5352; Filed, June 14, 1948; 8:55 a. m.]

[Return Order No. 138]

MAXIMILIAN HELLER

Having considered the claim set forth below and having issued a determination allowing the claim which is incorporated by reference herein and filed herewith,[1]

It is ordered, That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

Claimant and Claim No., Notice of Intention to Return Published, and Property

Maximilian Heller, London, England, 4314, May 4, 1948 (13 F. R. 2410); Property described in Vesting Order No. 201 (8 F. R. 625, January 16, 1943), relating to United States Letters Patent Nos. 1,986,060; 2,008,392 and 2,248,913. This return shall not be deemed to include the rights of any licensees under the above patents.

Appropriate documents and paper effecting this order will issue.

Executed at Washington, D. C., on June 9, 1948.

For the Attorney General.

DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5353; Filed, June 14, 1948; 8:55 a. m.]

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[1] Filed as part of the original document.